JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

2003 Regular Session

Volume I

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2003,
and in the Two Hundred and Eleventh
Year of the Commonwealth

Begun on Tuesday, the Seventh Day of January, 2003, and Adjourned
Sine Die on Tuesday, the Twenty-fifth Day of March, 2003

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the House Journal for the Regular Session of the 2003 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected representatives, roll call votes, and a sponsor and subject index.

JoAnn Paulin, Rhonda Carter, and Shelly Purvis prepared the *House Journal* for the 2003 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2004

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JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY
FIRST REGULAR SESSION
OF 2003
TUESDAY, JANUARY 7, 2003
FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 7, 2003, the two hundredth and eleventh year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Pro Tem Larry Clark assumed the Chair and called the House to order.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort, Kentucky.

The Speaker Pro Tem led the members in the Pledge of Allegiance to the Flag.

The Clerk read the following certificate from the Secretary of State:

I, John Y. Brown III, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 2nd day of December, 2002.

1st District
Charles R. Geveden
800 N. 6th Street
Wickliffe, KY 42087

2nd District
Fred Nesler
400 State Route 440
Mayfield, KY 42066

3rd District
Frank Rasche
2929 Jefferson Street
Paducah, KY 42001

4th District
Mike Cherry
803 S. Jefferson Street
Princeton, KY 42445

5th District
Robert "Buddy" Buckingham
1717 Magnolia Drive
Murray, KY 42071

6th District
J. R. Gray
3188 Mayfield Highway
Benton, KY 42025

7th District
John A. Arnold, Jr.
1301 North Lee
Sturgis, KY 42459

8th District
John W. Adams
6255 Huffman Mill Road
Hopkinsville, KY 42240

9th District
James E. "Jim" Bruce
6750 Ft. Campbell Blvd.
Hopkinsville, KY 42266

10th District
Eddie Ballard
1811 Grampian Drive
Madisonville, KY 42431

11th District
Gross Clay Lindsay
783 Woodspoint Drive
Henderson, KY 42420

12th District
Jim Gooch, Jr.
210 Bradley Street
Providence, KY 42450

13th District
Brian Crall
3336 Bryant Court
Owensboro, KY 42303

14th District
Tommy Thompson
4460 Hwy 142
Owensboro, KY 42303

15th District
Brent Yonts
232 Norman Circle
Greenville, KY 42345

16th District
Sheldon E. Baugh
252 West Valley Drive
Russellville, KY 42276

17th District
C. B. Embry, Jr.
415 Ward Ave.
Morgantown, KY 42261

18th District
Dwight D. Butler
US Hwy. 60 East
P.O. Box 194
Harned, KY 40144

19th District
Dottie J. Sims
459 Violet Avenue
Horse Cave, KY 42749

20th District
Jody Richards
817 Culpeper Street
Bowling Green, KY 42103

21st District
Roger Thomas
4415 Smiths Grove/Scottsville
Smiths Grove, KY 42171

22nd District
Rob Wilkey
1418 Reeder Sch. Road
Franklin, KY 42134

23rd District
Stephen R. Nunn
136 Fairway Place
Glasgow, KY 42141

24th District
Jimmy Higdon
344 N. Spalding Ave.
Lebanon, KY 40033

25th District
Jimmie Lee
901 Dogwood Drive
Elizabethtown, KY 42701

26th District
John Michael Weaver
131 Mayer Lane
Elizabethtown, KY 42701

27th District
James H. Thompson
50 Crosier Bottom Road
Battletown, KY 40104

28th District
Charles W. Miller
3608 Gateview Circle
Louisville, KY 40272

29th District
Kevin D. Bratcher
5205 Constance Drive
Louisville, KY 40272

30th District
Tom Burch
4012 Lambert Avenue
Louisville, KY 40218

31st District
Steven Riggs
8108 Thornwood Road
Louisville, KY 40220

32nd District
Scott W. Brinkham
6001 Two Springs Lane
Louisville, KY 40207

33rd District
Ron Crimm
10206 Judith Ct.
Louisville, KY 40245

34th District
Mary Lou Marzian
2007 Tyler Lane
Louisville, KY 40205

35th District
Jim Wayne
1280 Royal Avenue
Louisville, KY 40204

36th District
Lonnie Napier
302 Danville Street
Lancaster, KY 40444

37th District
Perry B. Clark
5716 New Cut Road
Louisville, KY 40214

38th District
Denver Butler
6712 Morocco Drive
Louisville, KY 40214

39th District
Robert R. Damron
231 Fairway West
Nicholasville, KY 40356

40th District
Dennis L. Horlander
Ste. 6, 1806 Farnsley Road
Shively, KY 40216

41st District
Tom Riner
1143 E. Broadway
Louisville, KY 40204

42nd District
Reginald K. Meeks
2301 Osage Avenue
Louisville, KY 40210

43rd District
Paul Bather
4706 Varble Avenue
Louisville, KY 40211

44th District
Joni Jenkins
2010 O'Brien Court
Louisville, KY 40216

45th District
Stan Lee
1401 Glenview Dr.
Lexington, KY 40514

46th District
Larry Clark
5913 Whispering Hills Blvd.
Louisville, KY 40219

47th District
Rick W. Rand
1418 Hwy 42 E
Bedford, KY 40006

48th District
Bob M. DeWeese
6206 Glen Hill Road
Louisville, KY 40222

49th District
Mary C. Harper
5550 N. Preston Hwy
Shepherdsville, KY 40165

50th District
Jodie Haydon
106 Hillcrest
Bardstown, KY 40004

51st District
Russ Mobley
900 Holly Street
Campbellsville, KY 42718

52nd District
Ken Upchurch
Rt. 8, Box 2625
Monticello, KY 42633

53rd District
James R. Comer
407 4th St. Blvd.
Tompkinsville, KY 42167

54th District
Mike Harmon
535 S. Lucas St.
Junction City, KY 40440

55th District
Jack L. Coleman, Jr.
781 Buster Pike
Burgin, KY 40310

56th District
Joe Barrows
152 Stout Avenue
Versailles, KY 40383

57th District
Derrick W. Graham
157 Bellemeade Dr.
Frankfort, KY 40601

58th District
Brad Montell
1555 Harrington Mill Rd.
Shelbyville, KY 40065

59th District
Tim Feeley
P.O. Box 64
6520 Hwy. 329
Crestwood, KY 40014

60th District
Paul H. Marcotte
10674 Palestine Drive
Union, KY 41091

61st District
Royce W. Adams
580 Bannister Road
Dry Ridge, KY 41035

62nd District
Charlie Hoffman
406 Bourbon Street
Georgetown, KY 40324

63rd District
Jon E. Draud
109 Vernor Drive
Crestview Hills, KY 41017

64th District
Thomas R. Kerr
5415 Old Taylor Mill
Taylor Mill, KY 41015

65th District
Arnold R. Simpson
112 West 11th
Covington, KY 41011

66th District
Charlie Walton
1663 Brierwood Court
Florence, KY 41042

67th District
Jim Callahan
10 Colonel Pointe Drive
Wilder, KY 41076

68th District
Joseph M. Fischer
11 Robannette Court
Ft. Thomas, KY 41075

69th District
Jon David Reinhardt
637 W. Poplar Thicket
Alexandria, KY 41001

70th District
Mitchel B. "Mike" Denham
306 Old Hill City Road
Maysville, KY 41056

71st District
John Will Stacy
Liberty Road, P.O. Box 135
West Liberty, KY 41472

72nd District
Carolyn R. Belcher
P.O. Box 44
1463 Old State Road
Preston, KY 40366

73rd District
Don Pasley
5805 Ecton Rd.
Winchester, KY 40391

74th District
Adrian K. Arnold
3589 Aarons Run Road
Mt. Sterling, KY 40353

75th District
Kathy W. Stein
364 Transylvania Park
Lexington, KY 40508

76th District
Ruth Ann Palumbo
10 Deepwood Drive
Lexington, KY 40505

77th District
Jesse Crenshaw
117 Constitution Street
Lexington, KY 40507

78th District
Thomas M. McKee
1053 Cook Rd.
Cynthiana, KY 41031

79th District
Susan Westrom
2965 B Candlelight Way
Lexington, KY 40502

80th District
Danny R. Ford
Hwy 150, P.O. Box 85
Mt. Vernon, KY 40456

81st District
Harry Moberly, Jr.
119 Jacks Trace, P.O. Box 721
Richmond, KY 40475

82nd District
Charles L. Siler
3570 Tackett Creek Road
Williamsburg, KY 40769

83rd District
Jeff Hoover
372 Lakeview Dr.
P.O. Box 985
Jamestown, KY 42629

84th District
Brandon Smith
350 Kentucky Blvd.
Hazard, KY 41701

85th District
Tommy Turner
175 Clifty Grove Church Rd.
Somerset, KY 42501

86th District
Jim Stewart
141 KY 223
Flat Lick, KY 40935

87th District
Rick G. Nelson
Route 3, Box 686
Middlesboro, KY 40965

88th District
Bill Farmer
3361 Squire Oak Dr.
Lexington, KY 40515

89th District
Marie L. Rader
U.S. 421 South
P.O. Box 323
McKee, KY 40447

90th District
Tim Couch
215 Meadow Lane
Hyden, KY 41749

91st District
Ted "Teddy" Edmonds
1257 Beattyville Rd.
Jackson, KY 41339

92nd District
Ancel Smith
1812 Wiley Fork Rd.
LeBurn, KY 41831

93rd District
W. Keith Hall
155 McCoy Caney Rd.
Phelps, KY 41553

94th District
Howard Cornett
20 Elpaso Dr.
Whitesburg, KY 41858

95th District
Gregory D. Stumbo
Fred's Fork
P.O. Box 511
Prestonsburg, KY 41653

96th District
Robin L. Webb
404 West Main Street
Grayson, KY 41143

97th District
Hubert Collins
72 Collins Lane
Whittensville, KY 41274

98th District
Tanya Pullin
RR #1, Box 486
South Shore, KY 41175

99th District
Rocky Adkins
3513 Briarwood Dr.
Catlettsburg, KY 41129

100th District
John F. Vincent
2320 Hickory Ridge Drive
Ashland, KY 41101

Said Representatives were administered their oath of office by the Honorable Joseph E. Lambert, Chief Justice, Kentucky Supreme Court.

The roll was called. All members present except Representatives Hall, Miller, Siler, and Richards.

Representative Ballad moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Stumbo moved that the Journal reflect that each member produced a Certificate of Election and that such certificates be confirmed. Agreed.

Representative Stumbo moved to grant floor privileges to special guests. Agreed.

Representative Stumbo moved the nomination of the House Constitutional Officers to serve until Midnight, December 31, 2003:

Chief Clerk: Lois Pulliam

Assistant Clerk: Sandi Morris

Enrolling Clerk: Margaret Watts

Sergeant at Arms: George Fritz

Chief Doorkeeper: J. O. Whitaker

Cloakroom Keeper: Frank Smith

Cloakroom Keeper: Barry Holder

Janitor: Bob Goodwin

Representative Stumbo moved that the nominations cease and the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by Chief Justice Joseph E. Lambert.

Representative Stumbo moved that the rules be suspended to introduce and act on Resolutions.

Representative Stumbo moved that the reading of pre-filed bills by sponsor and title be waived and a list of these be spread upon the Journal. Agreed.

Introduction of Bills and Resolutions

HB 3, by Representatives R. Thomas, A. Arnold, Richards, McKee, and R. Adams: AN ACT relating to income tax.

HB 4, by Representative L. Clark: AN ACT relating to capital projects.

HB 5, by Representative P. Clark: AN ACT relating to recommendations for capital construction programs.

HB 6, by Representative P. Clark: AN ACT relating to the Capital Construction and Equipment Purchase Contingency Account.

HB 7, by Representative Stumbo: AN ACT proposing a constitutional amendment relating to adjournment of the General Assembly.

HB 8, by Representative Nunn: AN ACT relating to physician medical malpractice.

HB 9, by Representative Hoover: AN ACT relating to public safety.

HB 10, by Representative Nunn: AN ACT relating to motor vehicles.

HB 11, by Representative Coleman: AN ACT relating to motor vehicles.

HB 12, by Representative Crimm: AN ACT relating to motor vehicles.

HB 13, by Representative Crimm: AN ACT relating to motor vehicles.

HB 14, by Representatives Stein and Marzian: AN ACT relating to civil rights.

HB 15, by Representative Haydon: AN ACT relating to public safety vehicles.

HB 16, by Representative Haydon: AN ACT relating to traffic regulations.

HB 17, by Representatives S. Lee, and Hall: AN ACT relating to domestic relations.

HB 18, by Representative Marcotte: AN ACT relating to vehicle emissions.

HB 19, by Representative Callahan: AN ACT relating to death certificates.

HB 20, by Representative Nunn: AN ACT relating to an electronic health network and declaring an emergency.

HB 21, by Representative Vincent: AN ACT relating to crimes and punishments.

HB 22, by Representative Geveden: AN ACT relating to child support.

HB 23, by Representative Collins: AN ACT relating to crimes and punishments.

HB 24, by Representative Denham: AN ACT relating to the underground railroad.

HB 25, by Representative Gooch: AN ACT relating to insurance continuing education.

HB 26, by Representative Marzian: AN ACT relating to a consistent public policy for the provision of services to persons with disabilities and the frail elderly.

HB 27, by Representative Stacy: AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to legislative sessions.

HB 28, by Representative Callahan: AN ACT relating to tourism development.

HB 29, by Representatives Lee and Hall: AN ACT relating to fetal homicide.

HB 30, by Representatives Richards and Bruce: AN ACT relating to eligibility for high school diplomas.

HB 31, by Representative Yonts: AN ACT relating to property.

HB 32, by Representative Yonts: AN ACT relating to compulsory school attendance.

HB 33, by Representative Yonts: AN ACT relating to compulsory school attendance.

HB 34, by Representative Yonts: AN ACT relating to speed limits.

HB 35, by Representative Baugh: AN ACT relating to permitting solid waste sites or facilities.

HB 36, by Representatives C. Belcher and Sims: AN ACT relating to abducted children.

HB 37, by Representative Stumbo: AN ACT relating to increasing the tax on cigarettes to improve the infrastructure of and services provided by the Department of State Police.

HB 38, by Representative Comer: AN ACT relating to six year road plan projects.

HB 39, by Representative Cherry: AN ACT relating to domestic relations.

HB 40, by Representative Cherry: AN ACT relating to student financial aid.

HB 41, by Representative Cherry: AN ACT relating to unlawful practices by employers.

HB 42, by Representative P. Clark: AN ACT relating to establishment of a capital renewal account.

HB 43, by Representative P. Clark: AN ACT relating to information technology systems.

HB 44, by Representative Draud: AN ACT relating to real property transactions.

HB 45, by Representative Weaver: AN ACT relating to the lottery.

HB 46, by Representative Weaver: AN ACT relating to a veterans' personal loan program.

HB 47, by Representative Weaver: AN ACT relating to charitable gaming.

HB 48, by Representative Marcotte: AN ACT relating to property tax.

HB 49, by Representative Rasche: AN ACT relating to college preparatory educational programs.

HB 50, by Representative Callahan: AN ACT relating to fire district boards of trustees.

HB 51, by Representative Callahan: AN ACT relating to fire district boards.

HB 52, by Representative Hoover: AN ACT relating to bail.

HB 53, by Representative Cherry: AN ACT relating to retirement.

HB 54, by Representative De. Butler: AN ACT relating to reorganization.

HB 55, by Representative Dw. Butler: AN ACT relating to local school district flexible spending accounts.

HB 56, by Representative Mobley: AN ACT relating to mayoral candidates.

HB 57, by Representative Westrom: AN ACT relating to student credit cards.

HB 58, by Representative Westrom: AN ACT relating to the clergy-penitent privilege.

HB 59, by Representative C. Belcher: AN ACT relating to the control of pest plants.

HB 60, by Representative Yonts: AN ACT relating to property taxes.

HB 61, by Representative Yonts: AN ACT relating to retirement.

HB 62, by Representative Weaver: AN ACT relating to operator's licenses.

HB 63, by Representative Weaver: AN ACT relating to motor vehicle operator's licenses.

HB 64, by Representative Weaver: AN ACT relating to United States Selective Service System.

HB 65, by Representative Weaver: AN ACT relating to the operation of a motor vehicle.

HB 66, by Representative Damron: AN ACT relating to parks and recreation.

HB 67, by Representative Damron: AN ACT relating to carrying a concealed deadly weapon.

HB 68, by Representative Damron: AN ACT relating to medical licensure, and declaring and emergency.

HB 69, by Representative Damron: AN ACT relating to sales and use taxes.

HB 70, by Representative Damron: AN ACT relating to consumer protection.

HB 71, by Representative Damron: AN ACT relating to adoption.

HB 72, by Representative Damron: AN ACT relating to the small claims division of the District Court.

HB 73, by Representative Damron: AN ACT relating to the employees of an urban-county adult misdemeanant probation and work release agency.

HB 74, by Representative Damron: AN ACT relating to the insurance premium tax.

HB 75, by Representative Damron: AN ACT relating to office location of mortgage loan brokers.

HB 76, by Representative Comer: AN ACT relating to students with diabetes.

HB 77, by Representatives Burch and Feeley: AN ACT relating to children's health.

HB 78, by Representatives L. Clark and Weaver: AN ACT relating to sponsorship of bills.

HB 79, by Representative Nunn: AN ACT relating to individuals with disabilities.

HB 80, by Representative Nunn: AN ACT relating to professional counselors.

HB 81, by Representative Meeks: AN ACT relating to cemeteries.

HB 82, by Representative Meeks: AN ACT relating to human remains and burial objects.

HB 83, by Representative Meeks: AN ACT relating to highway safety.

HB 84, by Representative Meeks: AN ACT relating to the Kentucky Native American Heritage Commission.

HB 85, by Representative Meeks: AN ACT relating to revenue and taxation, and making an appropriation therefor.

HB 86, by Representative Meeks: AN ACT relating to crimes and punishments.

HB 87, by Representative Gooch: AN ACT relating to health insurance.

HB 88, by Representative Wayne: AN ACT relating to smoking prohibitions at postseconday education institutions.

HB 89, by Representative Wayne: AN ACT relating to the Kentucky Lottery.

HB 90, by Representative Siler: AN ACT relating to concessions in state parks.

HB 91, by Representative Bather: AN ACT relating to an electronic health network for administrative and clinical transactions and declaring an emergency.

HB 92, by Representative Bather: AN ACT relating to an electronic health network to simplify administrative transactions.

HB 93, by Representative Damron: AN ACT creating the Interstate Compact for Juveniles.

HB 94, by Representative Dw. Butler: AN ACT relating to automobile insurance.

HB 95, by Representative Dw. Butler: AN ACT relating to health insurance for public employees.

HB 96, by Representative Dw. Butler: AN ACT relating to hunting dogs.

HB 97, by Representative Nesler: AN ACT relating to motor vehicle usage tax.

HB 98, by Representative Wayne: AN ACT relating to nonprofit corporations.

HB 99, by Representative Crimm: AN ACT relating to an advance directive for mental health treatment.

HB 100, by Representative Nelson: AN ACT relating to employees of the Court of Justice.

HB 101, by Representative Nelson: AN ACT relating to hazardous duty retirement.

HB 102, by Representative Nelson: AN ACT relating to insurance licenses issued under Subtitle 9 of KRS Chapter 304.

HB 103, by Representative Nelson: AN ACT relating to insurance.

HB 104, by Representative Bather: AN ACT relating to Medicaid coverage for the uninsured.

HB 105, by Representative Feeley: AN ACT relating to crimes against disabled adults and elder persons and declaring an emergency.

HB 106, by Representative Meeks: AN ACT relating to the provision of services by county interlocal agreement and making an appropriation therefor.

HB 107, by Representative C. Belcher: AN ACT relating to local taxation.

HB 108, by Representative Palumbo: AN ACT relating to the regulation of small businesses.

HB 109, by Representative Marzian: AN ACT relating to police merit boards in a consolidated local government.

HB 110, by Representative Burch: AN ACT relating to persons with disabilities.

HB 111, by Representative Burch: AN ACT relating to graduated driver's licenses for teenagers.

HB 112, by Representative Burch: AN ACT relating to health insurance coverage for colorectal cancer detection.

HB 113, by Representative Smith: AN ACT designating the official state Daniel Boone portrait.

HJR 3, by Representative Smith: A JOINT RESOLUTION honoring and memorializing Tony Turner of Hazard, Kentucky.

HCR 4, by Representative L. Clark: A CONCURRENT RESOLUTION urging the Legislative Research Commission to adopt the provisions of the Governor's Executive Order 2001-1084 relating to domestic violence and sexual assault in the public workplace.

HCR 5, by Representative Coleman: A CONCURRENT RESOLUTION requesting the Republic of Mexico to establish a Consulate of the Republic of Mexico in the Commonwealth of Kentucky.

HR 6, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Rosemary Clooney.

HJR 7, by Representative Collins: A JOINT RESOLUTION naming "The Ferguson Brothers Highway" in Morgan and Johnson Counties.

HJR 8, by Representative Yonts: A JOINT RESOLUTION directing the Department of Education with the assistance of the Department for Technical Education to develop educational strategies to meet the needs of students until they graduate from high school.

HJR 9, by Representative Nunn: A JOINT RESOLUTION urging the United States Congress to expand Medicare coverage to include oral anti-cancer drugs.

HCR 10, by Representative L. Clark: A CONCURRENT RESOLUTION recognizing the impact of the Federal Emergency Regulatory Commission's proposed Standard Market Design on the Commonwealth and supporting the U.S. House of Representatives in calling for a cost-benefit analysis.

HR 11, by Representative Meeks: A RESOLUTION adjourning the House of Representatives in honor of Ronald Lantz.

HR 12, by Representative J. Adams: A RESOLUTION adjourning the House of Representatives in honor of Nelda Barnett upon her recent appointment to the American Association of Retired Persons (AARP) Board of Directors.

HJR 13, by Representative Richards: A JOINT RESOLUTION declaring February 6 as the annual "Safe Return Day" for individuals with Alzheimer's Disease in the Commonwealth of Kentucky.

HR 14, by Representative Weaver: A RESOLUTION honoring the truck drivers of this Commonwealth and our great nation.

HCR 15, by Representative Damron: A CONCURRENT RESOLUTION designating February as Character Education Month in Kentucky.

HJR 16, by Representative Nunn: A JOINT RESOLUTION directing the Cabinet for Health Services to conduct a study to identify strategies to maximize the use of the federal prescription drug discount program under Section 340B of Public Law 102-585.

HCR 17, by Representative Nunn: A CONCURRENT RESOLUTION authorizing and directing a study of adult foster care.

HR 18, by Representative Meeks: A RESOLUTION honoring the work of the Sunshine Seniors.

HR 19, by Representative Meeks: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lionel Hampton.

HCR 20, by Representative Buckingham: A CONCURRENT RESOLUTION directing a study of student and citizen education regarding energy resources, their uses, and their impacts on the Commonwealth of Kentucky and the lives of its citizens by the Interim Joint Committee on Education, and supporting the creation of an Energy Education Foundation.

HCR 21, by Representative Meeks: A CONCURRENT RESOLUTION creating the Task Force on Inter-County Cooperation.

HCR 22, by Representative Burch: A CONCURRENT RESOLUTION reauthorizing the task force on quality long-term care for the purpose of studying methods to promote and enhance the provision of quality care in Kentucky's long-term care facilities.

Introduction of Bills and Resolutions (Continued)

HB 114, by Representative Vincent: AN ACT relating to toll roads.

HB 115, by Representative Cherry: AN ACT relating to electrical workers.

HB 116, by Representative Cherry: AN ACT relating to personal care homes.

HB 117, by Representatives J. Adams and Bruce: AN ACT relating to war memorial commissions.

HB 118, by Representative Burch: AN ACT relating to the transfer of unused prescription drugs to charitable health care providers.

HR 1, by Representative Richards: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2003 Regular Session with prayer.

HR 2, by Representative Richards: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HR 20*, by Representative Stumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ernest Hall.

HR 21*, by Representative Stumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James E. Bickford.

HR 22*, by Representative Comer: A RESOLUTION adjourning the House of Representative in loving memory and honor of Cass Ross Walden.

***HR 20, 21,** and **22** were given duplicate numbers and on page 19, they are renumbered as **HR 47, 48,** and **49.**

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 3, 59**

Appropriations and Revenue: **HB 10, 37, 48, 60, 69, 85, 89, 97**

Banking and Insurance: **HB 8, 12, 13, 25, 57, 70, 75, 94, 102, 112**

Economic Development: **HB 108**

Education: **HB 32, 33, 40, 49, 55, 76, 77, 88, HCR 15, 20, HJR 8**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 7, 27, 56, HCR 5**

Health and Welfare: **HB 19, 20, 26, 68, 71, 79, 80, 91, 92, 104, 110, HCR 17, 22, HJR 9, 16**

Judiciary: **HB 14, 17, 21, 22, 23, 29, 31, 39, 44, 52, 58, 67, 72, 82, 86, 93, 96, 98, 99, 100, 105**

Labor and Industry: **HB 41**

Licensing and Occupations: **HB 47**

Local Government: **HB 50, 51, 66, 73, 74, 106, 107, 109, HCR 21**

Natural Resources and Environment: **HB 35**

Seniors, Military Affairs, and Public Safety: **HB 30, 46, HJR 13**

State Government: **HB 4, 5, 6, 24, 42, 43, 45, 53, 54, 61, 78, 81, 84, 87, 95, 101, 103, 113, HCR 4**

Tourism Development and Energy: **HB 28, 90, HCR 10**

Transportation: **HB 9, 11, 15, 16, 18, 34, 36, 38, 62, 63, 64, 65, 83, 111, HJR 3, 7**

House Floor: **HR 6, 11, 12, 14, 18, 19**

Motions, Petitions, and Communications

Representative Stumbo moved to suspend the rules to introduce and act on Resolutions. Agreed.

Representative Stumbo moved the adoption of the following **HR 1**:

HR 1, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 2003 Regular Session with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Sergeant-at-Arms is directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open daily sessions of the 2003 Regular Session with prayer.

There being no objection **HR 1** was adopted.

Representative Stumbo moved the adoption of the following **HR 2**:

HR 2, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Speaker shall appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the 2003 Regular Session of the General Assembly is prepared to receive any message he may care to deliver.

There being no objection **HR 2** was adopted.

Representative Stumbo moved the adoption of the following **HR 20** (subsequently renumbered as **HR 47**):

HR 20, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ernest Hall.

With deepest respect and admiration, we pay homage and tribute to Ernest Hall, and we pause in silent reverence for his soul.

WHEREAS, Ernest Hall was born on October 4, 1921, a native of Melvin, Floyd County, Kentucky, and he traversed these earthly bounds on January 4, 2003; and

WHEREAS, Ernest Hall was the loving son of the late George Hall and Pricie Cole Hall, and he also was preceded in death by two loving brothers, Tommy Hall and Charles Hall, and three loving sisters, Hattie Stockdale, Martha Osborne, and Della McCowan; he was the devoted husband of Dorothy Stewart Hall, and he was the loving father of a son, Teddy Hall of Prestonsburg, and a daughter, Donna Faye Hall of Hunter; and he also leaves behind a surviving loving brother, Vondall Hall of Dearing, Georgia, and a loving sister, Daisy Osborne of Nancy; and

WHEREAS, Ernest Hall was a member of the Church of God of Prophecy; he was a retired coal miner, and he was a member of the United Mine Workers Association Local #9588; and

WHEREAS, the passing of Ernest Hall has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Ernest Hall, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ernest Hall.

Section 3. The Clerk of the House of Representatives is hereby ordered to transmit a copy of this Resolution to Mrs. Dorothy Stewart Hall, P. O. Box 53, High Hat, Kentucky 41636.

There being no objection **HR 20** was adopted.

Representative Stumbo moved the adoption of the following **HR 21** (subsequently renumbered as **HR 48**):

HR 21, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James E. Bickford.

With deepest respect and admiration, we pay homage and tribute to James E. Bickford, and we pause in silent reverence for his soul.

WHEREAS, James E. Bickford was born on April 17, 1937, a native of West Virginia, and longtime Kentucky resident, and he traversed these earthly bounds on October 25, 2002; and

WHEREAS, James E. Bickford was the loving son of Alma Baker Bickford and the late Estill Bickford; he was the devoted husband of Shirley Bickford; he was the loving father of three daughters, Amy Fraysur of Leesburg, Florida, Jill Crawford of Versailles, and Cindy Bentley of Port Charlotte, Florida; and he was the proud grandfather of five grandchildren; and

WHEREAS, James E. Bickford graduated from Tennessee Military Institute, he obtained his bachelor's degree and a commission as second lieutenant in the United States Army from Eastern Kentucky University, and he received a master's degree from the Florida Institute of Technology; he was later selected Outstanding Alumnus for Eastern Kentucky University in 1989, and served as president of the EKU National Alumni Association from 1999-2000; and

WHEREAS, during his distinguished 32-year career in the United States Army, James E. Bickford served his country with pride and distinction; he held posts in England, Germany, France, Korea, and Vietnam; during the Persian Gulf War, he commanded the Defense Fuel Supply Center, which bought, distributed, and stored all of the fuel, worldwide, for the Army, Navy, Air Force, and Marines, and his unit was awarded the Joint Meritorious Unit Award for performance in the Persian Gulf War; during his longstanding career, he received numerous decorations, including the Defense Distinguished Service Medal, the Army Distinguished Service Medal, the Legion of Merit, the Bronze Star with Oak Leaf Cluster, the Defense Meritorious Service Medal with Oak Leaf Cluster, and the Army Commendation Medal with Oak Leaf Cluster; at the time of his retirement, he held the rank of Brigadier General; in 1998, he was inducted into the United States Army Quartermaster Hall of Fame; and in 2001, he was inducted into the Defense Logistics Agency Hall of Fame; and

WHEREAS, James E. Bickford was appointed secretary of the Natural Resources and Environmental Protection Cabinet in 1995, and we are reminded that ethics and integrity played a large part toward his success as secretary; his vision and leadership led to numerous innovative programs and accomplishments throughout the Commonwealth that made for a cleaner, safer, and healthier place for all Kentuckians; he was dedicated to improving the Commonwealth's environment with his primary focus on solid waste issues, campaigning against straight sewer pipes and illegal dumps, promoting the collection and disposal of millions of waste tires, encouraging the regulation of large confined animal operations, and supporting passage of legislation to improve logging operations in Kentucky; he protected Black Mountain and the Pine Mountain Settlement School from the impacts of surface mining development; and he also is remembered for his partnership with United States representative Hal Rogers in creating the PRIDE (Personal Responsibility in a Desirable Environment) program in a 40-county area of eastern Kentucky; and

WHEREAS, James E. Bickford was the recipient of the Harry M. Caudill Lifetime Environmental Achievement Award from the Cumberland Chapter of the Sierra Club, the University of Kentucky's Tracy Farmer Center for the Environment presented him with the Outstanding Contribution to the Environment Award, and he was selected as one of the 20 most influential citizens of Harlan County during the last millennium; and

WHEREAS, James E. Bickford never forgot his Harlan County roots where he was raised, for it was there that he developed an appreciation for the natural environment, and throughout his life, he maintained a love affair with the eastern Kentucky mountains where he often returned; and

WHEREAS, James E. Bickford was a devout member of St. John's Episcopal Church in Versailles, where his funeral was held on October 28, 2002, with burial and military honors at the Rose Crest Cemetery; and

WHEREAS, the passing of James E. Bickford has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of James E. Bickford, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James E. Bickford.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Shirley Bickford, 33 Heritage Court, Versailles, Kentucky 40383.

There being no objection **HR 21** was adopted.

The roll call was open for co-sponsors and on the roll call the vote was: **Yeas 92** (See January 7, 2003, roll call to show co-sponsors of **HR 21**-Appendix)

Representative Stumbo announced that **HR 23** (House Rules) will be distributed sometime today and will be voted on tomorrow, January 8, 2003.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Resolutions and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 119, by Representative Bather: AN ACT relating to faith-based community development initiatives.

HB 120, by Representative Bather: AN ACT relating to river corridors.

HB 121, by Representative Bather: AN ACT relating to private passenger motor vehicle insurance premiums.

HB 122, by Representative Stumbo: AN ACT relating to elections and declaring an emergency.

HB 123, by Representative Ford: AN ACT relating to crimes and punishments.

HB 124, by Representative Ford: AN ACT relating to motor carrier dimension limits.

HB 125, by Representative Nunn: AN ACT relating to prescriptions for controlled substances.

HB 126, by Representative Nunn: AN ACT relating to electronic health registries.

HB 127, by Representative Nunn: AN ACT relating to medical licensure.

HB 128, by Representative Nunn: AN ACT relating to business names.

HB 129, by Representative Nunn: AN ACT relating to health care for prisoners.

HB 130, by Representative Gray: AN ACT relating to crimes and punishments.

HB 131, by Representative Bather: AN ACT relating to special license plates.

HB 132, by Representative Denham: AN ACT relating to local governments.

HB 133, by Representative Draud: AN ACT relating to oaths.

HB 134, by Representative Crimm: AN ACT relating to health insurance.

HB 135, by Representative Pullin: AN ACT relating to state employee health insurance.

HB 136, by Representative Comer: AN ACT relating to independent candidates for office.

HB 137, by Representative Marzian: AN ACT relating to nursing.

HB 138, by Representative De. Butler: AN ACT relating to alcoholic beverages.

HB 139, by Representative De. Butler: AN ACT relating to the sale of alcoholic beverages to minors.

HB 140, by Representative De. Butler: AN ACT relating to reorganization.

HB 141, by Representative De. Butler: AN ACT relating to reorganization.

HB 142, by Representative Meeks: AN ACT relating to property and casualty insurance contracts.

HB 143, by Representative Meeks: AN ACT relating to insurance.

HR 23, by Representative Stumbo: A RESOLUTION adopting Rules of Procedure for the 2003 Session of the House of Representatives.

HR 24, by Representative Nunn: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joy Bale Boone.

HJR 25, by Representative Gray: A JOINT RESOLUTION naming the bridge in Lyon County on Kentucky Route 453 that crosses the Barkley Canal.

HR 26, by Representatives Adkins and Stacy: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lucille Caudill Little.

HR 27, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Roy A. Redmond Sr.

HJR 28, by Representative Denham: A JOINT RESOLUTION honoring former Bracken County Judge/Executive Dwayne "Pie" Jett.

HR 29, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of John David Gantley.

HCR 30, by Representative Pullin: A CONCURRENT RESOLUTION encouraging state agencies to adopt an alert system for child kidnappings.

HCR 31, by Representative Rasche: A CONCURRENT RESOLUTION confirming the reappointment of Karon M. Click to the Education Professional Standards Board.

HCR 32, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of Jeffrey C. Mando to the Kentucky Board of Education.

HCR 33, by Representative Rasche: A CONCURRENT RESOLUTION confirming the reappointment of Terry J. Poindexter to the Education Professional Standards Board.

HCR 34, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of Esther P. Jansing to the Council on Postsecondary Education.

HCR 35, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of Wallace Campbell to the Education Professional Standards Board.

HCR 36, by Representative Rasche: A CONCURRENT RESOLUTION confirming the reappointment of Peggy M. Bertelsman to the Council on Postsecondary Education.

HCR 37, by Representative Rasche: A CONCURRENT RESOLUTION confirming the reappointment of Helen W. Mountjoy to the Kentucky Board of Education.

HCR 38, by Representative Rasche: A CONCURRENT RESOLUTION confirming the reappointment of William R. Weinberg to the Kentucky Board of Education.

HCR 39, by Representative Rasche: A CONCURRENT RESOLUTION confirming the reappointment of R. Keith Travis to the Kentucky Board of Education.

HCR 40, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of Janice B. Allen to the Kentucky Board of Education.

HCR 41, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of Eleanor C. Thompson to the Education Professional Standards Board.

HCR 42, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of Dorothy Z. Combs to the Kentucky Board of Education.

HCR 43, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of David B. Tachau to the Kentucky Board of Education.

HCR 44, by Representative Rasche: A CONCURRENT RESOLUTION confirming the appointment of Hilma S. Prather to the Kentucky Board of Education.

HCR 45, by Representative Rasche: A CONCURRENT RESOLUTION confirming the reappointment of John R. Hall to the Council on Postsecondary Education.

HCR 46, by Representative Webb: A CONCURRENT RESOLUTION consenting to the reappointment of William R. Whitledge as a member of the Mine Safety Review Commission.

HB 144, by Representative Simpson: AN ACT relating to parking citation enforcement.

HB 145, by Representatives Webb and Westrom: AN ACT relating to adoption of the Uniform Child Custody Jurisdiction and Enforcement Act.

HB 146, by Representative Webb: AN ACT relating to driving under the influence.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 29, Representative Napier

HB 69, Representative Riggs

HB 72, Representative Riggs

HB 132, Representative Denham.

Announcements

The following meetings were announced:

Minority Caucus: Room 229, 3 p.m.

Majority Caucus: Room 149, 3 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 11:00 a.m. on Wednesday, January 8, 2003.

The motion that the House adjourn until 11:00 a.m., Wednesday, January 8, 2003, was adopted by voice vote.

WEDNESDAY, JANUARY 8, 2003

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Representative Weaver introduced the color guard.

The roll was called. All members present except Representatives Hall and Siler.

The Honorable Joseph E. Lambert, Chief Justice, Kentucky Supreme Court, administered the oath to members not present on January 7, 2003.

Representative Stumbo moved to correct the Journal of January 7, 2003, to reflect that **HR 20** be correctly numbered **HR 47**, **HR 21** be correctly numbered as **HR 48**, and **HR 22** be correctly numbered as **HR 49**. Agreed.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 7, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Stumbo moved to grant floor privileges to special guests.

Speaker Richards vacated the chair.

Chief Clerk, Lois Pulliam, assumed the chair.

Representative Moberly moved the nomination of Representative Richards for Speaker of the House of Representatives.

Representative Moberly moved that nominations cease and Representative Richards be elected by acclamation. Agreed.

Representatives J. Arnold, Thomas, Meeks, Hoffman, Simpson, and Pullin escorted the newly elected Speaker to the podium.

The oath was administered to the newly elected Speaker by the Honorable John D. Minton, Jr., Circuit Judge of the 8th Circuit.

Speaker Richards resumed the chair.

Sylvia Lovely, Executive Director, Kentucky League of Cities addressed the House.

Hugh McCormick, President of KACO, addressed the House.

Robert Carpenter, President of the County Judge Executive Association, addressed the House.

Representative Adkins moved the nomination of Representative Larry Clark for Speaker Pro Tem.

Representative Adkins moved that nominations cease and Representative Larry Clark be elected by acclamation. Agreed.

Representatives Gray, Jenkins, Graham, Hoffman, and Pullin escorted the newly elected Speaker Pro Tem to the podium.

Representatives Gray, Jenkins, Graham, Hoffman, and Pullin.

The oath was administered to the newly elected Speaker Pro Tem by the Honorable John D. Minton, Jr., Circuit Judge of the 8th Circuit.

Representative Callahan announced the Majority leadership:

Representative Stumbo - Majority Floor Leader

Representative Callahan - Majority Caucus Chairman

Representative Barrows - Majority Whip

Representative Deweese announced the Minority leadership:

Representative Hoover - Minority Floor Leader

Representative Deweese - Minority Caucus Chairman

Representative Upchurch - Minority Whip

Introductions of Bills and Resolutions

HB 147, by Representative Stein: AN ACT relating to the long-term care ombudsman program.

HB 148, by Representative Stein: AN ACT relating to inspections of long-term care facilities.

HB 149, by Representative Stein: AN ACT relating to Medicaid reimbursement.

HB 150, by Representative Stein: AN ACT relating to the protection of adults.

HB 151, by Representative Wilkey: AN ACT relating to crimes and punishments.

HB 152, by Representative Fischer: AN ACT relating to human embryos.

HB 153, by Representative Fischer: AN ACT relating to the cloning of humans.

HB 154, by Representative Ballard: AN ACT relating to mobile telephone use.

HB 155, by Representative Ballard: AN ACT relating to visitation.

HB 156, by Representative Comer: AN ACT relating to retirement.

HB 157, by Representative R. Adams: AN ACT relating to financial administration.

HB 158, by Representative R. Adams: AN ACT relating to county finances.

HB 159, by Representative Gooch: AN ACT relating to utilities.

HB 160, by Representative Collins: AN ACT relating to property taxes.

HB 161, by Representative Nunn: AN ACT relating to crimes and punishments.

HB 162, by Representative Geveden: AN ACT relating to fees.

HB 163, by Representatives Geveden, Wilkey, and Cherry: AN ACT relating to access to justice programs.

HB 164, by Representatives Geveden and Cherry: AN ACT relating to retirement.

HR 50, by Representatives Nesler, Gray, Cherry, Geveden, and Rasche: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Henry Ward.

HR 51, by Representatives R. Adams: A RESOLUTION urging Cincinnati Bell to provide fair and equal broadband Internet access through their Asymmetric Digital Subscriber Line (ADSL) to rural customers in Gallatin, Grant, and Pendleton Counties.

HR 52, by Representative Lindsay: A RESOLUTION amending House Rule 52.

HR 53, by Representatives R. Thomas and Wilkey: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Regina Ayers DeRossette.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 121, 134, 142, 143**

Economic Development: **HB 119, 128**

Education: **HB 140, 141, HCR 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 122, 136**

Health and Welfare: **HB 116, 118, 125, 126, 127, 137**

Judiciary: **HB 123, 130, 133, 145, 146**

Labor and Industry: **HB 115**

Licensing and Occupations: **HB 138, 139**

Local Government: **HB 120, 129, 132, 144**

Seniors, Military Affairs, and Public Safety: **HB 117**

State Government: **HB 135, HCR 46**

Transportation: **HB 114, 124, 131, HJR 25, 28, HCR 30**

House Floor: **HR 23, 24, 26, 27, 29**

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that **HB 77** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved to suspend the rules to act on a Resolution. Agreed.

Representative J. Adams moved the adoption of the following **HR 12**:

HR 12, A RESOLUTION adjourning the House of Representatives in honor of Nelda Barnett upon her recent appointment to the American Association of Retired Persons (AARP) Board of Directors.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, Nelda Barnett, a resident of Owensboro, Daviess County, Kentucky, deserves recognition and honor for her twenty-five years in the aging field, serving as director of the Green River Area Agency on Aging (AAA) where she was instrumental in expanding services to the elderly, and increasing an initial grant of $150,000 to an impressive $1 Million during her tenure as director; she has served as director of Christian Church Homes of Kentucky, Owensboro Campus, was in public relations and marketing for Lifeline Home Care, Inc., and was founder and director of the Voluntary Action Center; and

WHEREAS, Nelda Barnett has been recognized for her outstanding work with volunteers from the Department of Health and Human Services; she was the recipient of the Elizabeth Munday Award in 1998 for her outstanding work for senior citizens in Owensboro; she also was the recipient of the Thoroughbred Award given by the Kentucky Association for Gerontology for her work in the field of aging in 1996; and in 2000, she was sent to Vietnam by the Woman-to-Woman program to learn about Vietnamese women and their culture; and

WHEREAS, Nelda Barnett served as AARP state president of Kentucky, she currently serves on the Kentucky Commission for Community Service Volunteers, and she was twice elected a delegate to the White House Conference on Aging; she has earned repeated praise from her colleagues in the aging field, and because of her extensive knowledge and expertise, she was elected to a six-year term on the AARP Board of Directors at the 2002 National Leadership Conference;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hails and salutes Nelda Barnett for her insight, vision, and compassion, and we hereby congratulate her upon her recently elected position on the AARP Board of Directors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Nelda Barnett.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Nelda Barnett, 4601 Old Hartford Road, Owensboro, Kentucky 42303, and to Mr. Robert Venafro, AARP, 601 E Street, N. W., Washington, D. C. 20049.

There being no objection **HR 12** was adopted.

Representative Adkins moved to suspend the rules to act on a Resolution. Agreed.

Representative Adkins moved the adoption of the following **HR 26**:

HR 26, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lucille Caudill Little.

With deepest respect and admiration, we pay homage and tribute to Lucille Caudill Little, and we pause in silent reverence for her soul.

WHEREAS, Lucille Caudill Little was born on August 20, 1909, a native of Rowan County, Kentucky, and she traversed these earthly bounds on October 8, 2002; and

WHEREAS, Lucille Caudill Little was the loving daughter of the late Judge Daniel Boone and Rosetta Proctor Caudill;

and she was the devoted wife to her loving husband, the late W. Paul Little; she was preceded in death by a loving sister, Dr. Claire Louise Caudill, and a loving brother, Boone Proctor Caudill; and she is survived by a loving sister, Patricia Caudill Eubank of Ft. Lauderdale, Florida, and a loving brother, Dr. Charles Milton Caudill of Somerset; and

WHEREAS, Lucille Caudill Little attended elementary and high school in Morehead, where she participated in speech, drama and music at Rowan County High School; she graduated from Hamilton College in Lexington, a women's school associated with Transylvania College; she attended classes at Transylvania College and the University of Kentucky before studying voice at Stetson University in Florida; after completing a bachelor's degree at Ohio State University in 1932, she took graduate courses at Columbia University in New York City, after which time she was the recipient of a scholarship to the prestigious Julliard School of Music, and continued her voice studies in New York under Douglas Stanley with Lily Pons as accompanist; she then returned home to Morehead and taught speech at Morehead Teachers College where she was instrumental in starting the school's theater department; and in 1937, she married W. Paul Little, after which time they made Lexington their home, where she became a participant and donor of the arts; and

WHEREAS, Lucille Caudill Little demonstrated an unwavering enthusiasm for the arts; her participation in and generous contributions to the causes she so passionately believed in was evidenced through her many substantial monetary awards throughout Kentucky; she was a founder and director of the Lexington Children's Theatre; a founder and director of Studio Players; a founder and past president of the Lexington Council on Social Planning; a founding member of the Board of the Lexington Symphony and the Lexington Philharmonic; a past president of the Lexington Girl Scout Council; a founder and president of the Blue Grass Girl Scout Council; a founding member of the boards of the Central Kentucky Youth Orchestra, the Living Arts and Science Center, the Fellows of the Arts, and Arts Place. She was a member of the National Society of Arts and Letters and was an original member of the Society of Fellows of the Lexington Arts Cultural Council and president of the W. Paul and Lucille Caudill Little Foundation; she served on the Board of Trustees at Transylvania University and Midway College, the Board of Directors of the Bank of the Bluegrass, the University of Kentucky Library Associates Executive Committee, the Lexington Opera Board, and the Henry Clay Estate. She received honorary doctorate degrees from Transylvania University, Georgetown College, the University of Kentucky, and Morehead State University, and had been awarded the Lexington Optimist Cup; and she was a member of Central Christian Church where she had been a soloist; and

WHEREAS, the passing of Lucille Caudill Little has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Lucille Caudill Little, and extends to her family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Lucille Caudill Little brought to the Commonwealth of Kentucky will never be forgotten, and her influence will continue through the many worthy causes she so generously supported.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lucille Caudill Little.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Kathy Milby, Bank of the Bluegrass, 101 East High Street, Lexington, Kentucky 40507.

There being no objection **HR 26** was adopted.

Representative Thomas moved to suspend the rules to act on a Resolution. Agreed.

Representative Thomas moved the adoption of the following **HR 53**:

HR 53, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Regina Ayers DeRossette.

With deepest respect and admiration, we pay homage and tribute to Regina Ayers DeRossette, and we pause in silent reverence for her soul.

WHEREAS, Regina Ayers DeRossette was born on October 14, 1920, a native of Warren County, Kentucky, and she traversed these earthly bounds on January 5, 2003; and

WHEREAS, Regina Ayers DeRossette was the loving daughter of the late Claude Hill and Mildred Tabor Hill Burton, and she was the devoted wife of the late Sidney Ayers and Comer DeRossette; she was the loving mother of a daughter, Neva Richards and her husband, Jody Richards, of Bowling Green, a son, Charles Ayers of Indianapolis, Indiana, and a stepdaughter, Janice Peterson of Bowling Green; she was the proud grandmother of three grandchildren, and two stepgrandchildren; she was the proud great-grandmother of six great-grandchildren and six great-stepgrandchildren; and she also leaves behind a loving sister, Barbara Loftin of Bakersfield, California; and

WHEREAS, Regina Ayers DeRossette was an esteemed member of the Warren County community, where she was a member of Greenwood Park Church of Christ, and she was a retired Fruit of the Loom seamstress; and

WHEREAS, the passing of Regina Ayers DeRossette has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Regina Ayers DeRossette, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Regina Ayers DeRossette.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Jody Richards and Mrs. Jody Richards, 817 Culpepper Street, Bowling Green, Kentucky 42103.

There being no objection **HR 53** was adopted.

Representative Smith moved to withdraw **HB 113**. Agreed.

Representative Westrom moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 1**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Patricia J. Cooksey upon being named one of the nine 2002 inductees into the Kentucky Athletic Hall of Fame. The all-time leading female jockey at Churchill Downs; one of only two female jockeys with more than 2,000 victories; the first woman to ride in the Preakness and the second to ride in the Kentucky Derby; P.J. Cooksey has truly reached a superior level of achievement within the sport of horseracing; has paved the way for other female jockeys by creating opportunities based on her successful runs and by demonstrating the tenacity of the female in this sport; and now joins an elite group whose contributions to athletic excellence have earned their inclusion into this prestigious society. Additionally, in November, 2002, this remarkable woman was named the recipient of the Vincent T. Lombardi Symbol of Courage Award which is presented annually by the Lombardi Cancer Center of Georgetown University in Washington, D.C. to a person in the sports world who has faced cancer and who possesses those same enduring qualities that made Coach Lombardi and past recipients such as Lance Armstrong and Scott Hamilton an inspiration to all people: dependability, courage, discipline and honor. Diagnosed with breast cancer in August, 2001, she returned to the track, winning second place in the fourth race at Churchill Downs on a four-year old filly named Gold Empress in June of 2002. The members of this august body are honored to join Representative Susan Westrom in commending Patti Cooksey, who has additionally served as a girl scout leader and home room mother at the Christian Academy in Louisville, on this most notable occasion and in paying tribute to this strong and accomplished woman of great faith for the recognition she has brought to her family, including her cherished husband, John Neal and daughter, Chelsea Neal; her community; and the Commonwealth of Kentucky. Done in Frankfort, Kentucky, this eighth day of January, in the year two thousand and three.

Legislative Citation No. 1 was adopted without objection.

Representative Stumbo moved that the rules be suspended for Introductions of Bills and Resolutions. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 165, by Representative Lindsay: AN ACT relating to civil matters.

HB 166, by Representative Lindsay: AN ACT relating to civil actions.

HB 167, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 168, by Representative Lindsay: AN ACT relating to probate.

HB 169, by Representative Lindsay: AN ACT relating to corporations.

HB 170, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 171, by Representative Jenkins: AN ACT relating to labor matters.

HB 172, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 173, by Representative Jenkins: AN ACT relating to Adult Protective Services.

HB 174, by Representative Jenkins: AN ACT relating to state employee health insurance.

HB 175, by Representative Fischer: AN ACT relating to the regulation of elections.

HB 176, by Representative Comer: AN ACT relating to funeral directors.

HB 177, by Representatives Webb and Vincent: AN ACT relating to social security numbers.

HB 178, by Representative DeWeese: AN ACT relating to sales tax.

HB 179, by Representative Webb: AN ACT relating to toll roads.

HB 180, by Representatives Webb and Brinkman: AN ACT relating to youthful offenders.

HB 181, by Representatives Damron, Belcher, Nelson, Buckingham, Coleman, R. Adams, Haydon, S. Lee, Thompson, Westrom, J. Arnold, Crall, and Jenkins: AN ACT relating to the establishment of Organ Donor Awareness Week.

HB 182, by Representative Pasley: AN ACT relating to protective orders.

HB 183, by Representative Crall: AN ACT relating to mandated health insurance benefits.

HB 184, by Representative Crall: AN ACT relating to retirement.

HR 54, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Charles Patrick "Pat" Moore.

HJR 55, by Representative Belcher: A JOINT RESOLUTION renaming the Paris By-Pass in Bourbon County.

HCR 56, by Representatives Weaver, L. Clark, and Riggs: A CONCURRENT RESOLUTION directing a study of methods for enhancing the security of essential homeland security records.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representatives Belcher, Denham, Napier, Pasley, Wilkey, and Yonts

HB 4, Representative Crimm

HB 7, Representative Yonts

HB 18, Representatives Callahan, Draud, Kerr, Reinhardt, and Walton

HB 19, Representative Yonts

HB 29, Representative Nunn

HB 30, Representatives Ballard and Yonts

HB 44, Representative Walton

HB 61, Representatives Crall and Pasley

HB 69, Representative S. Lee

HB 77, Representatives L. Clark, Meeks, and Stumbo

HB 99, Representatives Burch, Nunn, and Yonts

HB 105, Representative Meeks

HB 129, Representative Napier

HR 12, Representatives Crall and Thompson

HR 53, Representative Denham.

Adjournment

Representative Stumbo reminded the body that according to the rules, adjournment will be by voice vote.

Representative Stumbo moved that the House adjourn until 11:00 a.m. on Thursday, January 9, 2003.

The motion that the House adjourn until 11:00 a.m., Thursday, January 9, 2003, was adopted by voice vote.

THURSDAY, JANUARY 9, 2003

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Eliud Nderiter, a Youth Minister, from Kenya and also a student at the Southern Baptist Seminary in Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Hall and Siler.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 8, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 160, 178**

Elections, Constitutional Ammedments, and Intergovernmental Affairs: **HB 175**

Health and Welfare: **HB 147, 149, 173, 176**

Judiciary: **HB 148, 151, 152, 153, 155, 161, 165, 166, 167, 168, 169, 170, 172, 180, 182**

Labor and Industry: **HB 171**

Licensing and Occupations: **HB 154, 158, 162**

Natural Resources and Environment: **HB 159**

Seniors, Military Affairs, and Public Safety: **HB 150, HCR 56**

State Government: **HB 156, 157, 163, 164, 174, 177, 181, 183, 184, HR 52**

Tourism Development and Energy: **HR 51**

Transportation: **HB 179, HJR 55**

House Floor: **HR 49, 50, 54**

Report of Committees

The following members made Interim Committee Reports:

Representative Moberly - Committee on Appropriations and Revenue

Representatives Gooch and Thomas - Committee on Agriculture and Small Business

Representative Bruce - Committee on Banking and Insurance

Representative Kerr - Committee on Economic Development

Representative Rasche - Committee on Education

Representative A. Arnold - Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs

Representative Burch - Committee on Health and Welfare

Representative Gray - Committee on Labor and Industry

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 185, by Representative Ford: AN ACT relating to highway signage.

HB 186, by Representative Cherry: AN ACT relating to retirement.

HB 187, by Representative Cherry: AN ACT relating to retirement.

HB 188, by Representative Bather: AN ACT relating to parole.

HB 189, by Representative Bather: AN ACT relating to highway signs.

HB 190, by Representative Wilkey: AN ACT relating to restitution in criminal cases.

HB 191, by Representatives Crimm, Couch, Baugh, Gooch, Riggs, Crall, Upchurch, and Damron: AN ACT relating to personal motor vehicle insurance database.

HB 192, by Representative Kerr: AN ACT relating to substance abuse.

HB 193, by Representative Denham: AN ACT relating to court-appointed special advocate programs.

HB 194, by Representatives Marzian, Wayne, Damron, Burch, Jenkins, and Graham: AN ACT relating to services to individuals with mental illness, alcohol and other drug disorders, and dual diagnoses.

HR 57, by Representative Collins: A RESOLUTION adjourning the House of Representatives in honor of James T. Newman upon his retirement as Director of the Paintsville and Johnson County Emergency Management Agency.

HR 58, by Representative Stumbo: A RESOLUTION adopting Rules of Procedure to govern the 2003 Regular Session of the House of Representatives.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 68, HB 71, HB 77**

Local Government: **HB 66, HB 73, HB 74**

Motions, Petitions, and Communications

The Speaker announced the following committee to wait upon Governor Paul E. Patton: Representatives Rasche, Horlander, Palumbo, Crenshaw, McKee, and Napier.

Representative Crimm moved to withdraw **HB 12** and **HB 13**. Agreed.

Representative Nesler moved the adoption of the following **HR 50**:

HR 50, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Henry Ward.

With deepest respect, we pay homage and tribute to Henry Ward, and we pause in silent reverence for his soul.

WHEREAS, Henry Ward was born on June 20, 1909, a native of New Hope, McCracken County, Kentucky, and he traversed these earthly bounds on October 8, 2002; and

WHEREAS, Henry Ward was the loving son of the late Gustavus Adolphus and Beulah Jernigan Ward; he was the devoted husband of his late first wife, Gladys Lindsey Ward, and his late second wife, Elizabeth Beckley Ward; he was the loving father of a daughter, Patricia Ward Willis of Frankfort; two stepdaughters, Betty Beckley Maxson of Lexington and Jan Dudash of Canal Winchester, Ohio; and he was the proud grandfather of three grandchildren and six great-grandchildren; and

WHEREAS, after graduating from Paducah Tilghman High School in 1928, Henry Ward joined The Paducah Sun-Democrat as a dedicated reporter who was known for his crusading journalism; he was state representative for McCracken County during the 1934, '36, '38, '40, and '42 sessions of the Kentucky General Assembly where he was House majority leader in 1942, and he also represented McCracken County as state senator during the 1946 and 1948 sessions; from 1948 to 1955 he was state conservation commissioner, and was credited with building the state parks system into a tourist attraction, and starting development of the Kentucky Lake area; in 1960, he was appointed state highway commissioner, and during this time, he was credited with bringing competitive bidding to state road projects and developing a solid concept of planning, and removing state government of the injustice of patronage and favoritism; in 1968, he was named publisher of The Paducah Sun-Democrat; and in 1969, he was named president of the Kentucky Independent College Foundation, which coordinated the securing of grants and contributions to the then 14 non-tax supported colleges in Kentucky; and

WHEREAS, in 1966, Henry Ward announced his candidacy for Governor of Kentucky, defeating former Governor A. B. "Happy" Chandler in the primary election for the Democratic nomination, but was defeated in the general election by Republican nominee Louie B. Nunn; and

WHEREAS, Henry Ward was inducted into the Kentucky Journalism Hall of Fame in 1983; in 1990, he became the first person to be inducted into the Kentucky Transportation Hall of Fame, and in 1994, the Kentucky Senate renamed Interstate 24 in McCracken County for him; and

WHEREAS, when this honorable body reflects upon the contributions Henry Ward tirelessly gave to this great Commonwealth, we are reminded that ethics and integrity played a large part in his achievement as an outstanding journalist and as an honest and dedicated public servant; and

WHEREAS, the passing of Henry Ward has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Henry Ward, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Henry Ward.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Patricia Ward Willis, 100 Foxley Lane, Frankfort, Kentucky 40601.

There being no objection **HR 50** was adopted.

Representative Nunn moved the adoption of the following **HR 24**:

HR 24, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Joy Bale Boone.

With deepest respect and admiration, we pay homage and tribute to Joy Bale Boone, and we pause in silent reverence for her soul.

WHEREAS, Joy Bale Boone was born on October 29, 1912, a native of Chicago, Illinois, and longtime resident of Barren and Todd counties, and she traversed these earthly bounds on October 1, 2002; and

WHEREAS, Joy Bale Boone was the loving daughter of the late William Sydney and Edith M. Field; she was the devoted wife of her first husband, the late Dr. S. Garnett Bale of Elizabethtown, and her surviving husband, George Street Boone of Elkton; she was the adored mother of six children, Shelby G. Bale of Glasgow, Barbara O. Bale of Lexington, Daryl Bale Vann and her husband, "Pat," of Glasgow, Dr. Richard H. Bale and his wife, Gina, of Spokane, Washington, Dr. Bradley F. Bale and his wife, Kristen, of Glasgow, and a daughter-in-law, Robin Bale of Tacoma, Washington; and she was the proud grandmother of fifteen grandchildren and six great-grandchildren; and

WHEREAS, Joy Bale Boone founded and edited Approaches, a Kentucky poetry journal, and she edited two anthologies of Kentucky poetry; she served on the editorial board of the University Press of Kentucky, and on the board of the Friends of Kentucky Libraries, where she was instrumental in establishing Kentucky's bookmobile systems; and she was cofounder and past chair of the Center for Robert Penn Warren Studies at Western Kentucky University; and

WHEREAS, Joy Bale Boone founded the Elizabethtown League of Women Voters; she reviewed books for the Louisville Courier-Journal for more than fifty years and on WIEL radio in Elizabethtown; and on the state level, she was active in mental health and medical associations, the Heart Association and the Humanities Council; and

WHEREAS, among her special recognitions, Joy Bale Boone was the recipient of an honorary doctorate in humanities from Western Kentucky University, the Sullivan Medallion from the University of Kentucky, and the Kentucky School Board Association "Friend of Education" Award; she was designated Kentucky Poet Laureate by the General Assembly from 1997 to 1999; she served on the old Kentucky Council on Higher Education, the University of Kentucky board of the Gaines Center for Humanities, the Thomas Clark Foundation, the Advisory Board to Western Kentucky University, the Advisory Committee of Kentucky Educational Television, and the Kentucky Council on Higher Education; and

WHEREAS, Joy Bale Boone was highly esteemed in the Commonwealth of Kentucky as a literary figure, and she devoted countless hours to numerous charitable and civic organizations; and her generosity and affable manner will be sorely missed by those who had the good fortune of being associated with her; and

WHEREAS, the passing of Joy Bale Boone has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of bereavement and loss upon the passing of Joy Bale Boone, who brought to this great Commonwealth the enthusiasm and optimism she displayed throughout her life, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Joy Bale Boone.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Shelby G. Bale, 118 Wingate Avenue, Glasgow, Kentucky 42141.

There being no objection **HR 24** was adopted.

Representative Stumbo announced that **HR 58** will replace **HR 23** (House Rules) and will be considered tomorrow, January 10, 2003.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representatives Comer, Ford, Hoffman, Mobley, Nunn, Rand, Sims, and T. Thompson

HB 7, Representatives Adkins, Bather, Buckingham, and Coleman

HB 14, Representatives Bather and Meeks

HB 18, Representative Simpson

HB 26, Representative Meeks

HB 30, Representatives Buckingham and Mobley

HB 36, Representative Nelson

HB 40, Representatives Buckingham, Embry, Ford, Mobley, and Stumbo

HB 55, Representative Nelson

HB 61, Representatives Baugh and T. Thompson

HB 69, Representative Nelson

HB 72, Representatives Bather and Nelson

HB 77, Representatives Bather, Stein, and Wayne

HB 78, Representative Marcotte

HB 81, Representative Nelson

HB 83, Representative Burch

HB 89, Representatives Adkins, Bather, Bratcher, Brinkman, Buckingham, Burch, Coleman, Comer, Draud, Farmer, Ford, Geveden, Marcotte, Marzian, Meeks, Miller, Nesler, Palumbo, Rader, Stacy, Stein, Stumbo, T. Thompson, Turner, and Webb

HB 95, Representatives Embry and Nelson

HB 97, Representative Nelson

HB 99, Representatives Bratcher and Jenkins

HB 135, Representative Nelson

HB 136, Representative Embry

HB 142, Representative Bather

HB 143, Representative Bather

HB 152, Representatives Embry and S. Lee

HB 153, Representatives Embry and S. Lee

HB 160, Representative Nelson

HB 162, Representative Stein

HB 163, Representative Stein

HB 171, Representative Stein

HB 174, Representative Bather

HB 179, Representative Embry

HCR 46, Representative Ballard

Announcements

The following meeting was announced:

Majority Caucus: Room 149, today, 4:00 P.M.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 7:00 P.M. for the Governor's address. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that floor privileges be granted to Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Reverend Kevin W. Cosby, Sr. Pastor - St. Stephen Baptist Church, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the flag.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky, The Honorable Paul E. Patton.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

STATE OF THE COMMONWEALTH
BY GOVERNOR PAUL E. PATTON
THURSDAY, JANUARY 9, 2003 - 7:00 p.m.

President Williams, Speaker Richards, and members of the General Assembly, Justice Lambert and members of the Judiciary, Governor Henry and other constitutional officers, my fellow Kentuckians.

For the sixth and last time, I appear before you as governor to report on the state of the Commonwealth. And in many ways, the state of the Commonwealth is good; but, as always, there are still things we need to do as a society.

You're not assembled here to address the things which are going well in Kentucky; you're here to make changes where things could be better.

But as we talk about the challenges facing the Commonwealth, we shouldn't forget about what's right in Kentucky; and that's where I want to start tonight.

I begin by thanking the members of the Kentucky General Assembly for your many, many kindnesses, courtesies, words of encouragement, helpful advice, constructive criticisms and personal friendships you've shared with me since I've been governor and even before.

As we embark upon the most difficult session that will occur in my terms as governor, I pledge to you to be understanding as I articulate my position on issues. I pledge to be open, honest, dedicated and cooperative as we work together to decide Kentucky's course for the next year and a half and, in fact, for the next generation.

I'm extremely proud of what we've accomplished working with you these last seven years. We've made major change; fundamental change, in Kentucky society. I believe that we've achieved the goal that I set for our administration seven years ago; that is "to set us on a path to raise the quality of life and standard of living in Kentucky above the national average in 20 years."

And so let us review what I believe are the successes of the past seven years that we've made possible together.

Our first major initiative was to strengthen the efficiency and operation of state government. That's been an ongoing process and should never terminate.

The foundation of this effort is the EMPOWER Kentucky initiative authorized by the General Assembly in the 1996 session.

EMPOWER Kentucky is quite simply the most innovative, effective, and successful restructuring of state government business processes in the United States.

The administrative technology of state government is vastly improved. Our employees are better trained. Our people have more and better access to their government. And the results show.

EMPOWER Kentucky has improved the efficiency of government in Kentucky by almost 600 million dollars so far, and has institutionalized over 100 million dollars a year in increased efficiencies.

One of these efficiencies is fewer employees doing more work. Results? 1,166 fewer total employees today than were on the state payroll when I assumed office on December 12, 1995. I want to repeat that statement! 1,166 fewer total employees on the state payroll today than when I took office. And we're committed to further reduce the state payroll by another 1,000 by attrition before I leave office.

Yes, we've asked our employees to do more. We improved their technology so they're more productive. We improved their physical environment so they're working in safer, more efficient surroundings.

We've straightened out the state's pay grade scale and instituted a program to keep it current.

We've achieved the state's goal of a workforce which reflects the diversity of our population. For eight consecutive six-month reporting periods we've achieved our EEO employment goals and no previous administration has met that goal for even two consecutive six-month reporting periods!!!

We've improved financial management, revenue forecasting and purchasing procedures. We've managed our way through $872 million in revenue shortfalls over the last two years without the draconian measures to cut services other states have taken.

It's easy to pick out things about state government to criticize, but the fact is we've administered state government very efficiently!!!

We've made Kentucky safer from those who would violate our laws. Some may have forgotten our omnibus criminal justice reform proposal you enacted in 1998. While it increased the penalties for serious crimes, eliminating parole for most violent offenders and sex offenders who refuse treatment, it also contained alternatives to incarceration for less serious crimes.

Our tough stance on crime includes support for Megan's Law, the .08 DUI law and expanded DNA testing.

Our laws are to be enforced without regard to race, ethnic origin or gender. That's why I directed the Justice Cabinet to develop training and a model policy prohibiting racial profiling and to collect statistics on law enforcement stops.

We've developed the Unified Criminal Justice Information System and enhanced our public defender system as we strengthened our Commonwealth Attorneys' abilities to prosecute crime. Our local police officers are better trained, our state police better equipped, our penalties for hate crimes enhanced.

We've cracked down on prescription drug abuse, improved our programs for drug abusers, strengthened homeland security, and transformed our worst-in-the-nation juvenile justice system into a best-in-the-nation model, many states are trying to emulate.

And the results of this work show. From 1995 to 1999, the crime rate decreased 10 percent. Kentuckians are safer today because of your actions of the past seven years!!!

As impressive as our accomplishments are, they're threatened by our inability to pay for the incarceration of all the criminals who should be behind bars.

I must acknowledge that much of the work in criminal justice was led by a valued member of our cabinet who passed away this past year, a man who I believe was the greatest statesman of the 20th century in Kentucky, former Chief Justice and Secretary of the Justice Cabinet, the late Robert F. Stephens!!!

Through the work that Judi has spearheaded, we've made significant reforms to improve the protection of women and children.

You've supported her efforts by passing over 20 separate pieces of legislation on these issues alone.

We implemented the nation's first victim notification system. We substantially increased funding to spouse abuse centers and rape crisis centers. We created a new network of 15 innovative Children's Advocacy Centers.

And Judi has been a strong advocate for your efforts to establish family courts. Just this past year, she worked with UK President Lee Todd to create a first-of-its-kind Center for Research on Violence Against Women at the university.

Women and children are safer in Kentucky because of Judi's work!!!

And in spite of today's depressed economy, we've had successes in the battle to create jobs. Legislatively we've improved our workers' compensation system, revised our ten-year old economic development programs and added new ones like the highly successful Tourism Development Act, the Skills Training Tax Credit Act, the venture capital fund programs, coal industry development incentives, the economic opportunity zones programs, and the Military Affairs Commission.

We've addressed regional problems with the coal fields business park development program in east and west Kentucky as well as helping to establish major business parks in Warren, Hardin and Graves counties and several other places in Kentucky.

We have the most ambitious agricultural development initiative in the country and our statewide program of community infrastructure improvements will serve generations to come. And we've looked to the future with our New Economy initiative.

All in all we've done better growing our economy than many other states. We've been ranked 8th for capital investment, 7th for new jobs created and 2nd for business expansions. Our gross state product, average wages and per capita income are increasing faster than the national average. Our business climate is ranked better than any of our 7 bordering states. Our poverty rate has had the 12th best decrease in the nation and the percentage of Kentuckians unemployed is 15 percent below the national unemployment rate. We're growing Kentucky's economy!!!

Kentucky has had a social services program for all of my life and before. It has, for the most part, been focused on temporary relief of the symptoms of the failures of our society. Our objective has been to provide long-term solutions through a comprehensive family services approach to build on the strengths of our families. Our goal has been building self-sustaining families, not administering government handouts and we have reduced those on the welfare rolls by 52 percent!

Protecting our children and vulnerable adults from abuse and neglect and ensuring their well being has been a priority of this administration. We've increased the number of social workers, reduced caseloads and substantially increased salaries. Our Cabinet for Families and Children has gone beyond the call of duty by becoming the first voluntarily accredited state social services agency in the nation!!!

We've been among the most successful states to implement the children's health insurance program. Over 51,000 children in Kentucky have health insurance coverage today because of our work!!!

We've established an office of women's health, an office of child abuse and domestic violence prevention, improved our child protective services programs and doubled our rate of adoptions for state-committed children. Our Family Resource and Youth Services Centers are nationally recognized for their success and we've expanded them to every county in the state with a total of 775 centers.

We're reducing teenage smoking and teenage pregnancies, improving mental health services, strengthening our local health departments and we've done more to improve housing for our low-income citizens than at any other time in our history, receiving national recognition for the work of the Kentucky Housing Corporation!!!

In many ways, quality of life can't be measured in terms of dollars but you can see the difference all over Kentucky.

Our Renaissance Kentucky program is a national model for small town revitalization. Our historic preservation program, with the use of TEA-21 transportation funds, received a top award from the National Trust for Historic Preservation. Our 2020 water and wastewater initiative will ensure a healthier Kentucky for all of our people. Our efforts to save Black Mountain, the Pine Mountain Trail and Blanton Forest and a lot of the Bluegrass will give future Kentuckians opportunities that were almost lost forever.

Our efforts to reduce the adverse effects of non-coal mining, large animal feeding operations, illegal dumps, straight-pipe sewage disposal, solid waste disposal abuses, and roadside litter will forever result in a cleaner, healthier, more aesthetically pleasing Kentucky and will forever be a monument to another deceased hero of our cabinet, the former Secretary of Natural Resources and Environmental Protection, Jim Bickford!!!

And I pause to note the loss of another friend, a valued member of our administration and long-time colleague of yours, Commissioner of Parks, Kenny Rapier!!!

And I truly hope that our efforts to take a long-term strategic approach to the way we grow in Kentucky will take hold and cause us to become a state which minimizes the problems of the future by smart decisions rather than a state which can never catch up because it's consumed cleaning up the messes caused by short-sighted decisions of the past.

Yes, I'm convinced that Kentuckians will be better off in the future because of the actions we've jointly taken to address the less tangible aspects of our quality of life.

As essential as the elements of state government I've already discussed are to our long-term success as a society, our future depends on education. And from day one, I've strived to be an education governor. And from day one, you, the Kentucky General Assembly, have been by my side every step of the way.

My vision, my dedication, my determination, my inspiration to be an education governor has its origins in the courageous acts of the 1990 General Assembly and then governor of Kentucky, Wallace Wilkinson. The impending crisis in education in Kentucky in 1990 coincided with my gradual realization that although economic development in the short run can be promoted by business parks and tax incentives, in the long run it is totally dependent upon education.

I watched with admiration from the sidelines as you debated and decided upon the very future of Kentucky with KERA. I've said it before and I'll say it again, the Kentucky Education Reform Act is the greatest display of statesmanship and confidence in the people of Kentucky that I've seen in my lifetime. Your example has guided me every day that I've been governor. I applaud those still in this body who crafted, voted for and led to passage this historic legacy!!!

While I can claim no fathership of KERA, I do claim guardianship during these past seven years. Taking office just as the reaction to the unprecedented changes required was reaching its crescendo, our administration and bipartisan leadership in each chamber staved off the reactionaries, made the necessary adjustments, and secured KERA as the nation's most comprehensive and most successful reform of elementary and secondary education. Turning around such a fundamental societal foundation as education is, at best, slow; but at last, after twelve tumultuous years, the results are undeniable.

By every gauge available, Kentucky schools are better, much better, than they were; and they're getting better every day. We were the first in the nation to complete our schoolroom technology program. Our first-in-the-nation Virtual High School and our statewide Virtual Library are just two examples of how technology has improved Kentucky schools. Our after-school and summer school extended services tutoring program is making every effort to leave no child behind. Our school standards are the highest and our accountability program copied by state after state. Our school safety program is leading edge and our high school completion rate is now above the national average!

Our students are now performing above the national average in math, science, and language arts; who would have ever thought that that turn-around could happen here in Kentucky, the state that twelve years ago could only say "thank God for Mississippi." The people of Kentucky will be forever indebted to those of you who made it happen.

While I was a bystander when the KERA decision was made, I was watching and learning. As I studied ways to create jobs, I realized that in this day and age, a K-12 education was just a foundation upon which a more detailed and focused educational experience must be built for an individual to be prepared for success in our terribly complex, information-based economy of today.

And so I determined, long before I took the oath of office, that I would be the champion of postsecondary education. And there again, the members of the Kentucky General Assembly were my allies. As we debated and refined and improved our proposal, many of you were the driving force. And even after you passed it, there was lots of work to do to get it implemented; and again you've been there.

My time as the chief shepherd of postsecondary education is drawing to a close. New leadership of the Council on Postsecondary Education is on the way. Most every university as well as KCTCS has new leadership. This legislature must assume the role of guardian of postsecondary education as the inevitable reaction to change manifests itself.

Having had less time to produce results than KERA, our efforts are none-the-less receiving similar national acclaim and have produced stunning results. Among them are: enrollment in our public colleges and universities is up 20%; 46% in our Community and Technical Colleges.

Bucks for Brains has increased our endowed faculty by 400 percent and has attracted some of the nation's brightest minds. Research is up 41 percent and our Virtual University is bringing education to 10,000 students in every part of the Commonwealth. Our Kentucky Virtual Library is providing access to library services statewide, at an average of 1,100 searches every hour of every day of the week.

Again, these results are the legacy of bipartisan cooperation between both chambers of the General Assembly and our administration.

As K-16 education began to flourish in the land of the Bluegrass, I and other leaders began to realize that we'd started in the middle and that there was important work that needed to be done on each end of the life-long learning continuum.

And so in the 2000 session we addressed early childhood development and adult education, here again, making leading edge innovations that are already producing results.

155,000 women receiving help in pre- and post-natal child care, universal newborn hearing screenings, 17,000 more children immunized, universal eye examinations, better child care, scholarships for child care providers, 6,000 families receiving parenting assistance; just some of the accomplishments of our early childhood development program which is rated one of the best in the nation.

The same goes for adult education. Enrollment is up 69 percent and we've seen a 57 percent increase in the number of GEDs awarded; almost 21,000 Kentucky adults getting a high school credential.

Family literacy enrollment doubled and is now available in all 120 counties. And our Kentucky Virtual Adult Education website is the first of its kind, allowing adults to learn any place, any time, at their convenience. Again, the product of bipartisan cooperation between the executive and legislative branches of government!!!

Yes, I'm proud of what we've done and I hope that you are too because it was truly a joint venture in which we all participated and we all caused it to happen.

In spite of problems and setbacks, it's been a good seven years for Kentucky and a good seven years for me. But you're not assembled here to dwell on past successes. You're here to address today's challenges and tomorrow's promises. There are many issues that you'll address before the end of the March but there's one issue that'll dominate this session; and that's the budget.

I respect the independence and equality of the executive and legislative branches of government, as well as the judicial.

I fully understand that you have the authority to determine public policy and I have the responsibility to execute it. I also recognize our responsibility to work together to solve problems. I'm ready to do my part.

Our present fiscal crisis calls into question our continued ability to execute our existing public policy, because, to be very plain about it, we don't have enough money. We're not alone; 49 other states have severe revenue problems, most are in worse shape than Kentucky. Thirty-two (32) states have raised taxes. This is the worst fiscal crisis in Kentucky since World War II. The same is true for most of the states.

Some may say the state's current budget problem is the result of overspending. Well, let's look at why spending has increased. We have, since I've been in office, increased spending on criminal justice by 75 percent, the most of any area of government; and we still don't have enough money to house all the prisoners the courts are sending to prison.

We've increased Medicaid spending 64 percent; and the Medicaid budget is still $450 million short. We've increased spending on education 28 percent, and we still aren't fully funding the increased enrollment in K-12 or postsecondary education.

The increased spending for all the rest of government has been just 14 percent, in the face of inflationary increases of 19 percent.

We're going to find it awfully difficult to cut more out of our budget without substantially affecting service delivery.

I'll also remind you that we've implemented 26 tax cuts which will reduce taxes almost $500 million in FY 04. And over the past 7 years these tax cuts have saved Kentucky taxpayers 2 billion dollars!

Our administration has done all we know to do during these last two years of national economic slowdown to keep the commitments we've made through past legislative actions; and until December 18th, the day we began to release prisoners, we'd been able to live within existing resources without making any meaningful cuts to essential government services that you'd mandated us to provide.

We can no longer do that. We as a people must make a fundamental decision within the next three months. Will we increase revenue to fund our existing commitments or will we reduce our commitments to things like education, public safety, social welfare, public regulation, public infrastructure and cultural enrichment to a level that can be sustained by current revenue. We must look at the long-term effects of either of those courses of action, or a combination of the two.

For my part, I presented to you one year ago the minimum budget that I thought we should have if we don't want to go backwards. That budget had no new programs and no expansions of existing programs. You thought we needed to do more and added over $100 million to that budget.

I must remind you that that budget reflected our cuts of 2 percent to Medicaid and Higher Education. It reflected a 5 percent cut to all the rest of state government except K-12 education. It was my goal then and it is still my goal tonight to not make any cuts in our education programs!!!

And tonight we know that our revenue is $500 million short of what it takes to fund that budget. But as I review that budget, even if it were fully funded, it wouldn't fund today's estimate of the cost of our needs in Medicaid or prisons. In fact, it doesn't fully fund the Basic SEEK per-pupil-in-average-daily-attendance appropriation that it authorizes; and it doesn't fully fund the increased enrollments at our colleges and universities.

Now I know things have changed. But that budget proposal must be the starting point. With your help, I'll propose modifications that the changed situation necessitates. Perhaps we can agree on more places to cut. We may have to consider more revenue. I solicit your input.

This must be a joint exercise. It must be bipartisan. Each chamber must be involved. Each political caucus of each chamber must be involved. I encourage you to begin joint hearings of your Appropriations and Revenue committees to inform the public of the effects of the potential cuts, which will have to be made, to live with existing revenue.

We need an equally public debate of potential new sources of revenue. We need a thorough public discussion of both sides of the issue.

I'm prepared to lead. I ask for advice from the General Assembly.

In every major initiative of our administration, including every budget proposal I've presented to you, I've had extensive, bipartisan input from the legislature before it was introduced. I need the same cooperation now.

I'll do what I can, but ultimately the responsibility lies with you. In 11 months, I'll be gone. You'll still be here. The new governor shouldn't have to deal with an under funded budget or no budget at all. This crisis must be solved before then.

I'm going to reserve final judgement until I hear all the voices of Kentucky. I urge you and the people to do likewise; because this is a difficult dilemma we find ourselves in. There is no easy answer. The political perils are on both sides of this crisis.

I have but one responsibility for the next eleven months; that is to be the best governor I can be. For the next three months, I offer to work with you to give you and the people of Kentucky the best advice I can offer.

We must commit ourselves to transferring to the next governor a government that has a budget which can fund the commitments that that government has made, whether those commitments are the commitments we have today, or the reduced commitments which will be necessary if we're to live with current revenue.

This should not be the problem of the next governor. It is our problem. It arose on my watch; and it should be solved on my watch. With your help, and the guidance of the people of Kentucky, we will solve it. We must solve it. Our people deserve no less!!!

As I close this, my last State of the Commonwealth Address, I again thank all the members of the General Assembly, current and past, who've strengthened me, challenged me, supported me, and made me a better governor. I've been enriched beyond measure by the experience of working with you.

And to the people of Kentucky, I'll be forever grateful for the confidence you have three times shown in me. Please know this: as your children and grandchildren take their place in the Commonwealth – going to school, entering college, going to work, raising a family – our work has been for them. Our legacy is what we tried to build on their behalf. And it is to them that I dedicate the entirety of my two administrations as governor.

Good night, God bless you, and God bless America.

Representative Stumbo moved to disslove the Joint Session. Agreed.

The Speaker resumed the Chair and called the House to order.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m. on Friday, January 10, 2003.

The motion that the House adjourn until 10:00 a.m., Friday, January 10, 2003, was adopted by voice vote.

FRIDAY, JANUARY 10, 2003

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Good Shepherd Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Damron, Hall, and Siler.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 9, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage **SCR 14**. (Time: 10:15 a.m.)

Introduction of Bills and Resolutions

HB 195, by Representatives Miller, J. Thompson, Dw. Butler, L. Clark, Horlander, Jenkins, Marzian, De. Butler, Bratcher, Brinkman, Crimm, Burch, and Wayne: AN ACT relating to school law enforcement officers.

HB 196, by Representatives Geveden, Cherry, Nesler, Stein, Rasche, Buckingham, Coleman, Nelson, T. Thompson, Weaver, Moberly, J. Lee, Haydon, Wilkey, Sims, J. Arnold, and Yonts: AN ACT relating to the Legislative Branch Budget and declaring an emergency .

HB 197, by Representative Kerr: AN ACT relating to public safety.

HB 198, by Representative Haydon: AN ACT relating to child booster seats.

HB 199, by Representative S. Lee: AN ACT relating to school financial statements.

HB 200, by Representative S. Lee: AN ACT relating to civil actions.

HB 201, by Representative S. Lee: AN ACT relating to school employees.

HB 202, by Representative Burch: AN ACT relating to graduated driver's licenses for teenagers.

HB 203, by Representatives Vincent, Adkins, Pullin, and Webb: AN ACT relating to health insurance.

HB 204, by Representatives Vincent and Adkins: AN ACT creating an additional circuit court judgeship in the Thirty-second Judicial Circuit.

HB 205, by Representatives Draud, Marzian, Wayne, Meeks, Haydon, and Stein: AN ACT relating to revenue and taxation, and making an appropriation therefor.

HB 206, by Representative Weaver: AN ACT providing for a Kentucky Support of Guard and Reserve Employers' Council.

HB 207, by Representatives Marcotte, Damron, Baugh, Walton, Gray, Harmon, R. Adams, Embry, Kerr, Ford, Crimm, Reinhardt, Ballard, and Fischer: AN ACT relating to deadly weapons.

HR 59, by Representative Bather: A RESOLUTION amending House Rules 37 and 41.

HR 60, by Representative Sims: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Charline Keith Dowling Williams.

HR 61, by Representative Sims: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Darrell Florence.

HR 62, by Representative Brinkman: A RESOLUTION adjourning the House of Representatives in honor of the Louisville Wild Oats Natural Marketplace.

HR 63, by Representative Haydon: A RESOLUTION honoring William H. Hintze, Jr., Deputy State Budget Director.

HJR 64, by Representative Turner: A JOINT RESOLUTION naming the General Burnside Memorial Bridge.

HR 65, by Representative McKee: A RESOLUTION adjourning the House of Representatives in honor of Ralph Eddie Coppage upon his retirement as Harrison County Clerk.

HB 208, by Representative Brinkman: AN ACT relating to the annexation of a city of the fifth class.

HB 209, by Representative Brinkman: AN ACT relating to commerce.

HB 210, by Representative Gooch: AN ACT relating to cosmetology fees.

HB 211, by Representative Denham: AN ACT relating to unclaimed property.

HB 212, by Representative Riner: AN ACT relating to crimes and punishments.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 191**

Health and Welfare: **HB 192, 194**

Judiciary: **HB 187, 188, 190, 193**

State Government: **HB 186**

Transportation: **HB 185, 189**

House Floor: **HR 57, 58**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 70, HB 75**

Report of Committees

The following members made Interim Committee Reports:

Representative Nunn - Committee on Long Term Policy Research Center

Representative Lindsay - Committee on Judiciary

Representative De. Butler - Committee on Licensing and Occupations

Representative Weaver - Committee on Seniors, Military Affairs, and Public Safety

Representative Riggs - Committee on Local Government

Representative Geveden - Committee on State Government

Representative Collins - Committee on Transportation

The Committee on Committees Report provided the following committee appointments:

2003 Standing Committees

Agriculture & Small Business

Representative Roger Thomas, Chair

Representative Royce Adams, Vice-Chair

Representative John Arnold, Vice-Chair

Representative Thomas McKee, Vice-Chair
Representative Don Pasley, Vice-Chair
Representative Ken Upchurch, Vice-Chair
Representative Adrian Arnold
Representative Sheldon Baugh
Representative James Bruce
Representative Dwight Butler
Representative Mike Cherry
Representative Jack Coleman
Representative James Comer
Representative Mike Denham
Representative Jim Higdon
Representative Charlie Hoffman
Representative Brad Montell
Representative Fred Nesler
Representative Rick Rand
Representative Dottie Sims
Representative Tommy Turner
Representative Susan Westrom

Appropriations and Revenue

Representative Harry Moberly, Chair
Representative Mike Cherry, Vice-Chair
Representative Robert Damron, Vice-Chair
Representative Bob DeWeese, Vice-Chair
Representative Joni Jenkins, Vice-Chair
Representative Charles Siler, Vice-Chair
Representative Robin Webb, Vice-Chair
Representative Royce Adams
Representative Rocky Adkins
Representative Joe Barrows
Representative Scott Brinkman
Representative Dwight Butler
Representative Jim Callahan
Representative Larry Clark
Representative Jack Coleman
Representative Jesse Crenshaw
Representative Jon Draud
Representative Danny Ford
Representative Jimmie Lee

Representative Mary Lou Marzian
Representative Tom McKee
Representative Lonnie Napier
Representative Fred Nesler
Representative Stephen Nunn
Representative John Will Stacy
Representative Tommy Turner
Representative John Vincent
Representative Jim Wayne
Representative Rob Wilkey

Banking and Insurance

Representative James Bruce, Chair
Representative John Adams, Vice-Chair
Representative Paul Bather, Vice-Chair
Representative Sheldon Baugh, Vice-Chair
Representative Mike Denham, Vice-Chair
Representative Don Pasley, Vice-Chair
Representative Tommy Thompson, Vice-Chair
Representative James Comer
Representative Brian Crall
Representative Ron Crimm
Representative Robert Damron
Representative Ted Edmonds
Representative Joseph Fischer
Representative Danny Ford
Representative Jim Gooch
Representative Dennis Horlander
Representative Frank Rasche
Representative Steve Riggs
Representative Arnold Simpson
Representative Brandon Smith
Representative Roger Thomas
Representative Ken Upchurch
Representative Susan Westrom
Representative Rob Wilkey

Economic Development and Tourism

Representative Ruth Ann Palumbo, Chair
Representative Tim Couch, Co-Chair
Representative Ted Edmonds, Vice-Chair
Representative Dennis Horlander, Vice-Chair
Representative Rocky Adkins
Representative Robert Buckingham
Representative Perry Clark
Representative Jesse Crenshaw
Representative Bob DeWeese
Representative C. B. Embry, Jr.
Representative Bill Farmer
Representative Charles Geveden
Representative Jeff Hoover
Representative Tom Kerr
Representative Stan Lee
Representative Gross Lindsay
Representative Russ Mobley
Representative Brad Montell
Representative John Will Stacy
Representative Tommy Thompson
Representative Charlie Walton
Representative Mike Weaver

Education

Representative Frank Rasche, Chair
Representative Jon Draud, Vice-Chair
Representative Charles Miller, Vice-Chair
Representative Tom Riner, Vice-Chair
Representative Arnold Simpson, Vice-Chair
Representative Dottie Sims, Vice-Chair
Representative Charles Walton, Vice-Chair
Representative Buddy Buckingham
Representative Mike Cherry
Representative Jack Coleman
Representative Hubert Collins
Representative Ted Edmonds
Representative C. B. Embry, Jr.
Representative Bill Farmer
Representative Tim Feeley

Representative Derrick Graham

Representative Mary Harper

Representative Mary Lou Marzian

Representative Reginald Meeks

Representative Harry Moberly

Representative Russ Mobley

Representative Rick Nelson

Representative Charles Siler

Representative Kathy Stein

Representative Jim Thompson

Elections, Constitutional Amendments, and Intergovernmental Safety

Representative Adrian Arnold, Chair

Representative Perry Clark, Vice-Chair

Representative Joseph Fischer, Vice-Chair

Representative Joe Barrows

Representative Kevin Bratcher

Representative James Bruce

Representative Mike Harmon

Representative Charles Hoffman

Representative Gross Lindsay

Representative Mary Lou Marzian

Health and Welfare

Representative Tom Burch, Chair

Representative Paul Bather, Vice-Chair

Representative Bob DeWeese, Vice-Chair

Representative Stephen Nunn, Vice-Chair

Representative Kathy Stein, Vice-Chair

Representative John Arnold

Representative Brian Crall

Representative Robert Damron

Representative Mike Harmon

Representative Jimmy Higdon

Representative Joni Jenkins

Representative Mary Lou Marzian

Representative Ruth Ann Palumbo

Representative Jon David Reinhardt

Representative Ancel Smith

Representative Susan Westrom

Judiciary

Representative Gross Lindsay, Chair
Representative Arnold Simpson, Vice-Chair
Representative John Vincent, Vice-Chair
Representative Rob Wilkey, Vice-Chair
Representative Brent Yonts, Vice-Chair
Representative Paul Bather
Representative Kevin Bratcher
Representative Perry Clark
Representative Jesse Crenshaw
Representative Tim Feeley
Representative Joseph Fischer
Representative Charlie Geveden
Representative Jeffrey Hoover
Representative Stan Lee
Representative Frank Rasche
Representative Kathy Stein
Representative Robin Webb

Labor and Industry

Representative J. R. Gray, Chair
Representative Charlie Hoffman, Vice-Chair
Representative Joni Jenkins, Vice-Chair
Representative Rick Nelson, Vice-Chair
Representative Jim Stewart, Vice-Chair
Representative John Arnold
Representative Denver Butler
Representative C. B. Embry, Jr.
Representative Dennis Hollander
Representative Tom Kerr
Representative Russ Mobley
Representative Brent Yonts

Licensing and Occupations

Representative Denver Butler, Chair
Representative Reginald Meeks, Vice-Chair
Representative Charlie Miller, Vice-Chair
Representative Jon David Reinhardt, Vice-Chair
Representative Tom Burch
Representative Larry Clark

Representative Ron Crimm
Representative Jon Draud
Representative Jim Gooch
Representative Jeff Hoover
Representative Dennis Hollander
Representative Joni Jenkins
Representative Paul Marcotte
Representative Ruth Ann Palumbo

Local Government

Representative Steve Riggs, Chair
Representative John Adams, Vice-Chair
Representative Ron Crimm, Vice-Chair
Representative Jim Wayne, Vice-Chair
Representative Adrian Arnold
Representative Scott Brinkman
Representative Jim Callahan
Representative James Comer
Representative Mike Denham
Representative Ted Edmonds
Representative Derrick Graham
Representative J. R. Gray
Representative Jimmy Higdon
Representative Charlie Hoffman
Representative Stan Lee
Representative Reginald Meeks
Representative Marie Rader
Representative Arnold Simpson
Representative Roger Thomas
Representative Ken Upchurch

Natural Resources and Environment

Representative James Gooch, Chair
Representative Howard Cornett, Vice-Chair
Representative Keith Hall, Vice-Chair
Representative Rocky Adkins
Representative Scott Brinkman
Representative Hubert Collins
Representative Tim Couch
Representative Don Pasley

Representative Marie Rader
Representative Rick Rand
Representative Brandon Smith
Representative Jim Stewart
Representative Robin Webb
Representative Brent Yonts

Seniors, Military Affairs, and Public Safety

Representative Mike Weaver, Chair
Representative Sheldon Baugh, Vice-Chair
Representative Jodie Haydon, Vice-Chair
Representative Jim Thompson, Vice-Chair
Representative Carolyn Belcher
Representative Tom Burch
Representative Bill Farmer
Representative Danny Ford
Representative Mary Harper
Representative Fred Nesler
Representative Tanya Pullin
Representative Steve Riggs
Representative Tom Riner
Representative Charlie Siler

State Government

Representative Charles Geveden, Chair
Representative Eddie Ballard, Vice-Chair
Representative James Bruce, Vice-Chair
Representative Robert Buckingham, Vice-Chair
Representative Derrick Graham, Vice-Chair
Representative Paul Marcotte, Vice-Chair
Representative Lonnie Napier, Vice-Chair
Representative John Adams
Representative Joe Barrows
Representative Carolyn Belcher
Representative Dwight Butler
Representative Jim Callahan
Representative Larry Clark
Representative Tim Couch
Representative Brian Crall
Representative Tim Feeley

Representative Jimmie Lee
Representative Steve Nunn
Representative Tanya Pullin
Representative Jon David Reinhardt
Representative Tom Riner
Representative John Will Stacy
Representative Tommy Thompson
Representative Jim Wayne

Tourism Development and Energy

Representative Thomas Kerr, Chair
Representative Jodie Haydon, Vice-Chair
Representative Tom McKee, Vice-Chair
Representative Brandon Smith, Vice-Chair
Representative Royce Adams
Representative Eddie Ballard
Representative Carolyn Belcher
Representative Brian Crall
Representative Howard Cornett
Representative J. R. Gray
Representative Keith Hall
Representative Mike Harmon
Representative Mary Harper
Representative Brad Montell
Representative Tanya Pullin
Representative Ancel Smith
Representative Charlie Walton
Representative Robin Webb

Transportation

Representative Hubert Collins, Chair
Representative Don Pasley, Vice-Chair
Representative Marie Rader, Vice-Chair
Representative Rick Rand, Vice-Chair
Representative Ancel Smith, Vice-Chair
Representative John Arnold, Jr.
Representative Eddie Ballard
Representative Carolyn Belcher
Representative Kevin Bratcher
Representative Denver Butler

Representative Howard Cornett
Representative Mike Denham
Representative Keith Hall
Representative Jodie Haydon
Representative Jimmie Lee
Representative Paul Marcotte
Representative Charlie Miller
Representative Lonnie Napier
Representative Rick Nelson
Representative Jim Thompson
Representative Tommy Turner
Representative James Stewart
Representative John Vincent
Representative Mike Weaver

Rules

Representative Jody Richards, Chair
Representative Rocky Adkins
Representative Adrian Arnold
Representative John Arnold
Representative Joe Barrows
Representative Sheldon Baugh
Representative Jim Callahan
Representative Larry Clark
Representative Bob DeWeese
Representative Danny Ford
Representative Charles Geveden
Representative Jeff Hoover
Representative Jimmie Lee
Representative Fred Nesler
Representative Ruth Ann Palumbo
Representative Steve Riggs
Representative John Will Stacy
Representative Kathy Stein
Representative Gregory Stumbo
Representative Ken Upchurch
Representative Rob Wilkey

Committee on Committees

Representative Jody Richards
Representative Larry Clark
Representative James Callahan
Representative Greg Stumbo
Representative Joe Barrows
Representative Jeff Hoover

Enrolling Committee

Dottie Sims, Chair
Representative Joe Barrows
Representative Greg Stumbo
Representative Jeff Hoover

Statutory, Special Committees, and Task Forces

Administrative Regulation Review

Representative John Arnold, Chair
Representative Jim Bruce
Representative Jimmie Lee
Representative Jon D. Reinhardt

Capital Planning Advisory Board

Representative Perry Clark, Chair
Representative Brian Crall

Capital Projects and Bond Oversight

Representative Jodie Haydon, Chair
Representative Bob Damron
Representative Paul Marcotte
Representative Jim Wayne

Education Assessment and Accountability Review

Representative Harry Moberly, Chair
Representative Frank Rasche
Representative Mark Treesh
Representative Mary Lou Marzian

Government Contract Review

Representative Brent Yonts, Chair
Representative Jesse Crenshaw
Representative Jeff Hoover
Representative Kathy Stein

Medicaid Managed Care Oversight

Representative Paul Bather, Chair
Representative Jim Bruce
Representative Jack Coleman
Representative Stephen Nunn
Representative Dottie Sims

Program Review and Investigations

Representative Charlie Hoffman, Co-Chair
Representative Adrian Arnold
Representative Sheldon Baugh
Representative Dwight. Butler
Representative Ruth Ann Palumbo
Representative Tanya Pullin
Representative Dottie Sims
Representative Jack Coleman

Veterans Affairs

Representative Eddie Ballard, Chair
Representative John Adams
Representative Royce Adams
Representative Carolyn Belcher
Representative Jim Bruce
Representative Mike Cherry
Representative Perry Clark
Representative Bob Damron
Representative J. R. Gray
Representative Jodie Haydon
Representative Charlie Hoffman
Representative Jimmie Lee
Representative Lonnie Napier
Representative Fred Nesler
Representative Jon David Reinhardt
Representative Steve Riggs

Representative Charlie Siler
Representative Jim Thompson
Representative Mike Weaver

Tobacco Task Force

Representative Jim Bruce, Vice-Chair
Representative John Adams
Representative Royce Adams
Representative Adrian Arnold
Representative John Arnold
Representative Eddie Ballard
Representative Sheldon Baugh
Representative Carolyn Belcher
Representative Denver Butler
Representative Dwight Butler
Representative Jack Coleman
Representative James Comer
Representative Bob Damron
Representative Mike Denham
Representative Jim Gooch
Representative Charlie Hoffman
Representative Tom McKee
Representative Lonnie Napier
Representative Fred Nesler
Representative Don Pasley
Representative Tanya Pullin
Representative Marie Rader
Representative Jon David Reinhardt
Representative Dottie Sims
Representative John Will Stacy
Representative Jim Stewart
Representative Roger Thomas
Representative Tommy Turner
Representative Mike Weaver
Representative Robin Webb
Representative Brent Yonts

Energy Special Subcommittee

Representative Tanya Pullin, Chair
Representative Royce Adams

Representative Eddie Ballard

Representative Carolyn Belcher

Representative James Bruce

Representative Buddy Buckingham

Representative Dwight Butler

Representative Bob DeWeese

Representative J. R. Gray

Representative Thomas Kerr

Representative Lonnie Napier

Representative Fred Nesler

Representative Tom Riner

Representative Charles Walton

Representative Brent Yonts

Budget Review Subcommittees

BR Sub on Economic Development, Natural Resources, and Tourism

Representative Rob Wilkey, Chair

Representative Jim Callahan

Representative Larry Clark

Representative Lonnie Napier

Representative John Vincent

Liaison Members

Representative Robert Buckingham

Representative Charlie Hoffman

Representative Tommy Thompson

Ex officio Members

Representative Harry Moberly

Representative Ruth Ann Palumbo

BR Sub on General Government, Finance, and Public Protection

Representative Royce Adams, Chair

Representative Bob Damron

Representative Charlie Siler

Representative Jim Wayne

Liaison Members

Representative John Adams

Representative Carolyn Belcher

Representative Tanya Pullin

Ex officio Members

Representative Harry Moberly

Representative Roger Thomas

BR Sub on Justice, Corrections, and Judiciary

Representative Jesse Crenshaw, Chair

Representative Dwight Butler

Representative Tom McKee

Representative Robin Webb

Liaison Members

Representative Mike Denham

Representative Arnold Simpson

Representative Brent Yonts

Ex officio Members

Representative Gross Lindsay

Representative Harry Moberly

BR Sub on Education

Representative John Will Stacy, Chair

Representative Joe Barrows

Representative Jon Draud

Representative Mary Lou Marzian

Representative Tommy Turner

Liaison Members

Representative Jim Thompson

Representative Jodie Haydon

Representative Charlie Miller

Ex officio Members

Representative Harry Moberly

Representative Frank Rasche

BR Sub on Human Resources

Representative Jimmie Lee, Chair

Representative Joni Jenkins

Representative Bob DeWeese

Representative Scott Brinkman

Representative Stephen Nunn

Liaison Members

Representative Reginald Meeks

Representative Dottie Sims

Representative Kathy Stein

Ex officio Members

Representative Harry Moberly

Representative Tom Burch

BR Sub on Transportation

Representative Rocky Adkins, Chair

Representative Jack Coleman

Representative Fred Nesler

Representative Mike Cherry

Representative Danny Ford

Liaison Members

Representative John Arnold

Representative Eddie Ballard

Representative Don Pasley

Ex officio Members

Representative Harry Moberly

Representative Hubert Collins

Representative Stumbo moved the adoption of the Committee on Committees Report. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to suspend the rules to act on **HR 58**. Agreed.

Representative Stumbo moved to suspend the rules to withdraw **HR 23**. Agreed.

Representative Stumbo moved to withdraw the motion to act on **HR 58**. Agreed.

Representative Stumbo moved to suspend the rules to act on a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **SCR 14**:

SCR 14, A CONCURRENT RESOLUTION adjourning the 2003 Regular Session of the General Assembly until February 4, 2003.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and the House of Representatives adjourn on January 10, 2003, they do adjourn until February 4, 2003, when they shall convene for the second part of the 2003 Regular Session of the General Assembly.

There being no objection **SCR 14** was adopted.

Representative Sims moved to suspend the rules to act on Resolutions. Agreed.

Representative Sims moved the adoption of the following **HR 60**:

HR 60, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Charline Keith Dowling Williams.

With deepest respect and admiration, we pay homage and tribute to Charline Keith Dowling Williams, and we pause in silent reverence for her soul.

WHEREAS, Charline Keith Dowling Williams was born on January 9, 1913, a native of Upton, Hardin County, Kentucky, and longtime resident of Munfordville, Hart County, Kentucky, and she traversed these earthly bounds on December 21, 2002; and

WHEREAS, Charline Keith Dowling Williams was the loving daughter of the late Charles B. and Stella Keith Dowling; she was the devoted wife of the late Glenn Davis Williams; she was the loving mother of two daughters, Sylvia Watson Jaegers of Louisville and Janice Williams McCombs of Munfordville, and a son, Charles Dowling Williams of Munfordville; and she was the proud grandmother of 4 grandchildren and 6 great-grandchildren; and

WHEREAS, Charline Keith Dowling Williams was an esteemed member of the Hardin and Hart County communities where she had been a member of Woodsonville Union Church from 1925 to 1940, and Munfordville Baptist Church since 1940, and she was a Sunday School teacher and organist for sixty years; she was a 1934 graduate of Duke University, and a member of the Munfordville Women's Club; and

WHEREAS, the passing of Charline Keith Dowling Williams has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Charline Keith Dowling Williams, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Charline Keith Dowling Williams.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Charles Dowling Williams, Attorney-at-Law, P. O. Box 157, Munfordville, Kentucky 40765.

There being no objection **HR 60** was adopted.

Representative Sims moved the adoption of the following **HR 61**:

HR 61, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Darrell Florence.

With deepest respect and admiration, we pay homage and tribute to Darrell Florence, and we pause in silent reverence for his soul.

WHEREAS, Darrell Florence was born on August 25, 1937, a native of Hodgenville, Larue County, Kentucky, and he traversed these earthly bounds on January 1, 2003; and

WHEREAS, Darrell Florence was the loving son of the late James Henry and Germaine Bartley Florence, and he also was preceded in death by two sisters, Joyce Phillips and Judy Fehrman; he was the devoted husband of Judy Walters Florence; he was the loving father of a daughter, Dara Ann Rogers of Hodgenville, and a son, John David Florence of Glasgow; he was the proud grandfather of three grandchildren, Shelby Rogers, Kylie Rogers, and Jill Taylor Florence; and he also leaves behind three sisters, Shirley Smith, Wilma Priddy, and Sharon Florence, all of Louisville, and two brothers, George William Florence of Elizabethtown, and Kenneth Florence of Louisville; and

WHEREAS, Darrell Florence graduated from Larue County High School and from Union College in Barbourville, where he was the recipient of a basketball scholarship; and

WHEREAS, Darrell Florence was an esteemed member of the Larue County community, where he was a member of First Baptist Church in Hodgenville; he was beginning his second term as mayor of Hodgenville; and he was a retired administrator for the Barren County School System; and

WHEREAS, the passing of Darrell Florence has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Darrell Florence, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Darrell Florence.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Judy Walters Florence, 401 South Lincoln Boulevard, Hodgenville, Kentucky 42748.

There being no objection **HR 61** was adopted.

Representative Gooch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gooch moved the adoption of the following **Legislative Citation No. 2**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Norma Jean Willson and Wayne Willson and joins with Representative Jim Gooch, Jr. in expressing deepest sympathy to the Willson Family and all those who share in the loss of these two most distinguished citizens. Mrs. Willson, a native of Webster County, Kentucky, was a homemaker and active member of the Tilden Homemakers, Ermine Ford Chapter No. 9, and the Order of the Eastern Star. Mr. Willson, a retired postmaster for the Dixon Post Office, was a 33-degree Mason; a member of Poole Lodge No. 604, Dixon Lodge No. 911, Madisonville Scottish Rite, and the Madisonville Rizpah Temple; was a charter member of the Dixon Lions Club and the Dixon Park Board; held a seat on the Webster County Water Board; was a former member of the Webster County Economic Development Board; and, was a farmer and auctioneer. Pud and Wayne Willson are survived by their cherished son, Luther; respective sisters, Judy Morrow and Lois Jean Becker; two grandchildren; and, several nieces and nephews. This remarkable couple, who faithfully attended the Dixon General Baptist Church, are remembered on this day for the many and generous contributions they made to their family, friends and community. Norma Jean and Wayne Willson will be deeply missed by all those whose lives were touched by their remarkable presence. Done in Frankfort, Kentucky, this tenth day of January, in the year two thousand and three.

Legislative Citation No. 2 was adopted without objection.

Representative Collins moved that the rules be suspended to introduce act upon a Legislative Citation and Resolutions. Agreed.

Representative Collins moved the adoption of the following **Legislative Citation No. 3**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors James T. Newman for his outstanding contributions to the citizens of this great Commonwealth. Having recently retired as the Director of the Paintsville/Johnson County Emergency Management Agency, this remarkable gentleman's record of service to the members of his community also includes his efforts as a volunteer firefighter; Disaster Chairman for the Johnson County Chapter of the American Red Cross; Director of Civil Defense for Paintsville and Johnson County; and the United States Civil Defense Council Representative for the state of Kentucky. A 1945 graduate of Paintsville High School and honorable veteran of the U.S. Navy who earned his degree in Biology and Chemistry from Thomas More College, James T. Newman has earned the much-deserved admiration and respect of his peers and colleagues and has been named the recipient of many notable accolades including the 1975 Distinguished Service Award from the Paintsville Kiwanis Club; the 1979 Citizen of the Year Award by Beta Sigma Pi Sorority of Paintsville; a Certificate of Merit from the Mayor of Louisville for his assistance in organizing the Louisville and Jefferson County Civil Defense Program; a Certificate of Merit from the United States Civil Defense Council; the 1972 Richard S. Funck Memorial Award from the Defense Civil Preparedness Agency; and induction into the Dr. Jack Carey Hall of Fame in recognition of his efforts in helping develop and teach EMT Training programs to hundreds of students across Kentucky throughout the years. Inasmuch as this distinguished gentleman has demonstrated a personal commitment and a meticulous work ethic that has served the best interest of his profession and all citizens of the Commonwealth of Kentucky, the members of this prestigious body are honored to join Representative Hubert Collins in offering sincere expressions of gratitude to James T. Newman for a job well done and in extending warmest wishes for a productive and rewarding retirement. Done in Frankfort, Kentucky, this tenth day of January, in the year two thousand and three.

Legislative Citation No. 3 was adopted without objection.

Representative Collins moved the adoption of the following **HR 57**:

HR 57, A RESOLUTION adjourning the House of Representatives in honor of James T. Newman upon his retirement as Director of the Paintsville and Johnson County Emergency Management Agency.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, James T. Newman graduated from Paintsville High School in 1945, he graduated from Thomas More College in 1951 with a degree in Biology and Chemistry, and he later studied bacteriology at the University of Kentucky; and

WHEREAS, James T. Newman served his country with pride and distinction in the United States Navy, where he served on the USS Keokuk-AKN4 (Fleet Net Layer) and the USS LSM175 (Troop Transport Landing Ship); and

WHEREAS, James T. Newman was appointed Disaster Chairman for the Johnson County Red Cross in 1955, he was appointed Director of Civil Defense for the City of Paintsville and Johnson County in 1956, after which time he was appointed Director of the Paintsville and Johnson County Emergency Management Agency; and

WHEREAS, through the years, James T. Newman has faced many disasters in the Paintsville and Johnson County communities, where he coordinated activities for floods during 1957, 1963, 1967, 1977, and 1984; and his invaluable service to his community is beyond measure and will have lasting impact; and

WHEREAS, to mention only a few of his recognitions, the Paintsville Rotary Club and the City of Paintsville applauded him for his excellent skills in coordinating flood activities; he was awarded a Certificate of Merit from the United States Civil Defense Council in 1961, and later was the council's representative for the State of Kentucky; he was awarded a Certificate of Merit from the Mayor of Louisville for his assistance in organizing the Louisville and Jefferson County Civil Defense Program; he was the recipient of the 1965 Kiwanian of the Year Award by the Paintsville Kiwanis Club; and he was awarded the Richard S. Funck Memorial Award in 1972 from the Defense Civil Preparedness Agency for his dedication, leadership, and highly visible efforts in civil preparedness; in 1975, he was awarded the Distinguished Service Award from the Paintsville Kiwanis Club; he was awarded a certificate of appreciation from the United States Army Corps of Engineers for his efforts in evacuating the residents of Staffordsville and Paintsville during the cofferdam failure scare at Paintsville Lake in 1978; he was awarded the 1979 Citizen of the Year Award by Beta Sigma Phi Sorority of Paintsville; and he was the recipient of a certificate of completion by the United States Army Chemical Center and School at Fort McClellan, Alabama, for completing the prestigious Public Health and Medical Chemical and Biological Defense course; and

WHEREAS, in 1983, James T. Newman was inducted into the Paintsville High School Life Honor Roll, and in 1993, he was inducted into the Dr. Jack Carey Hall of Fame for his efforts in helping to develop and teach emergency medical training programs to hundreds of students in Kentucky; and

WHEREAS, on April 28, 1964, James T. Newman received a letter of appreciation from the White House thanking him for coordinating the security and other logistics for President Lyndon B. Johnson's trip to Paintsville and the eastern Kentucky area; on January 23, 1968, he received a letter of commendation from Governor Louie B. Nunn for his response to the December 1967 Silver Bridge Collapse at Point Pleasant, West Virginia, and on June 10, 1970, he received another letter from the White House in which President Richard M. Nixon commended him for his exceptional service to the public; and

WHEREAS, James T. Newman has exemplified dedication, professionalism, and high standards, while demonstrating extraordinary vision and leadership during times of peril and danger in his community; and

WHEREAS, James T. Newman retired as Director of the Paintsville and Johnson County Emergency Management Agency on December 31, 2002;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body applauds and congratulates James T. Newman upon his many achievements during his long and successful career, during which his acts of caring and compassion have brought light and inspiration to so many lives. We wish to him immeasurable success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of James T. Newman.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Hubert Collins for presentation to James T. Newman.

There being no objection **HR 57** was adopted.

Introductions of Bills and Resolutions (Continued)

HR 69, by Representative Collins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Nancy A. Lauffer.

Motions, Petitions, and Communications (Continued)

Representative Collins moved the adoption of the following **HR 69**:

HR 69, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Nancy A. Lauffer.

With deepest respect and admiration, we pay homage and tribute to Nancy A. Lauffer, and we pause in silent reverence for her soul.

WHEREAS, Nancy A. Lauffer was born on September 16, 1932, a native of Gassaway, West Virginia, and longtime resident of Paintsville, Johnson County, Kentucky, and she traversed these earthly bounds on January 6, 2003; and

WHEREAS, Nancy A. Lauffer was the loving daughter of the late Harry B. and Laura Givens McLaughlin; she was the devoted wife of James B. Lauffer, and she was the loving mother of two sons, James Michael Lauffer and Walter Steven Lauffer, both of Paintsville; and she was the proud grandmother of three grandsons, James Seth Lauffer, William Turner Lauffer, and Justin Martin Lauffer, and three granddaughters, Amanda Leslie Lauffer, Clara McVey Lauffer, and Cristy Lee Lauffer; and she also leaves behind two loving sisters, Harriet Whitman of Lynden, Washington, and Agnes McNeil of Sutton, West Virginia; and

WHEREAS, the passing of Nancy A. Lauffer has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Nancy A. Lauffer, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Nancy A. Lauffer.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. James B. Lauffer, 709 Walnut Avenue, Paintsville, Kentucky 41240.

There being no objection **HR 69** was adopted.

Representative Brinkman moved to suspend the rules to act on a Resolution. Agreed.

Representative Brinkman moved the adoption of the following **HR 62**:

HR 62, A RESOLUTION adjourning the House of Representatives in honor of the Louisville Wild Oats Natural Marketplace.

WHEREAS, the health of the citizens of the Commonwealth of Kentucky is enhanced when they have access to meats that are free of antibiotics and growth hormones, and the circulatory and cardiac systems of the body are protected when citizens have access to breads and cereals that are free of hydrogenated and partially hydrogenated oils; and

WHEREAS, the Louisville Wild Oats Natural Marketplace at 4600 Shelbyville Road will be a one-stop shop for natural and organic product alternatives to meet customers' day-to-day grocery needs, and the Shelbyville Road Plaza store will be filled with more than 7,000 products and 2,000 brands of all-natural and organic grocery, dairy, and frozen food items; and

WHEREAS, the Louisville Wild Oats Natural Marketplace will have a produce department that offers more than 175 different fresh organic produce items, and will feature a vast selection of the highest quality fresh fruits and vegetables grown by local and regional farmers; and with a minimum standard of no less than 70 percent organic fruits and vegetables in the store, customers will also discover exotic and hard-to-find produce items, including more than 15 varieties of tropical fruits, 13 different types of lettuce, and 14 kinds of fresh tomatoes; and

WHEREAS, the store's fresh meat and seafood department will feature fresh fish delivered daily and 100 different varieties of fresh meat and poultry products, all raised without the use of antibiotics, growth hormones, or feed containing animal by-products; and customers can dine in or take out fully-prepared, healthy meals from a large selection of salads, sandwiches, entrees, side dishes, and smoothies prepared fresh daily or made to order in the Wild Cafe and Juice and Java bar; and

WHEREAS, the Louisville Wild Oats Natural Marketplace will offer cheeses from 20 countries and fresh marinated and stuffed olives in the cheese case and olive bar; and a whole department will be devoted to all-natural vitamins, dietary supplements, herbal remedies, and body care products that will make up the Natural Living department, all of which are developed without the use of animal testing and contain ingredients that promote environmental sustainability; and

WHEREAS, the Louisville Wild Oats Natural Marketplace will incorporate state-of-the art equipment for optimal energy preservation and conservation; the HVAC and lighting is run by a sophisticated computer system that will allow for cycling, thereby reducing overall energy consumption, and the refrigeration system used for freezers and meat cases will reclaim energy that will be used to heat the water for the food service and deli departments; and

WHEREAS, to promote health and well-being among customers, employees, local communities and the environment, the Louisville Wild Oats Natural Marketplace will host an ongoing schedule of store events that offer customers information and education about living a healthy lifestyle; its charitable giving programs include four 5% Days each year, whereby 5% of the store's total sales for the day are donated to a local nonprofit group; the first 5% Day for the Louisville Wild Oats store will be held on Monday February 10, 2003, and will provide funds for Brightside's community garden program; Brightside is a local nonprofit group whose mission is to keep the Louisville community clean, green, and environmentally aware; and additionally, to encourage recycling and reusing grocery bags, customers who bring their own bags to the store receive either a $.05 refund or a wooden nickel for each bag, which is then donated to one of three local nonprofit groups; and

WHEREAS, the Louisville Wild Oats Natural Marketplace store opening will be on Wednesday, January 29, 2003, at 9:00 a.m.;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives wishes to express its appreciation to the Louisville Wild Oats Natural Marketplace for its leadership in making available to citizens of this Commonwealth specialty products, such as organic foods and produce that are not harmful for human consumption.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Louisville Wild Oats Natural Marketplace.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Scott Brinkman for presentation to the Louisville Wild Oats Natural Marketplace at its VIP Opening Event on Tuesday, January 28, 2003.

There being no objection **HR 62** was adopted.

Representative McKee moved the adoption of the following **HR 65**:

HR 65, A RESOLUTION adjourning the House of Representatives in honor of Ralph Eddie Coppage upon his retirement as Harrison County Clerk.

WHEREAS, Ralph Eddie Coppage is the son of the late Ralph and Anna Sue Coppage, he is the loving brother of a sister, Mary Sue Grubb of Cynthiana, and he is the proud uncle of two nieces and nephews, and a great niece and nephew; and

WHEREAS, Ralph Eddie Coppage served his country with honor and distinction in the United States Army during the Vietnam War, and he is the recipient of two purple hearts; and he was instrumental in the placement of the Korean War Memorial monument on the Harrison County Courthouse lawn in Cynthiana; and

WHEREAS, Ralph Eddie Coppage served as Harrison County Clerk for twenty-five years; during his tenure as County Clerk, he represented his constituents with pride and honesty, while exemplifying dedication, professionalism, and high standards in his day-to-day activities; under his auspices, voter registration in Harrison County increased from 7,800 to 11,536; after passage of the mandatory proof of insurance legislation, Harrison County automobile taxes increased considerably, and with modern computerization, Harrison County was one of the first 15 counties in the Commonwealth to go on-line with the state Department of Transportation; and

WHEREAS, Ralph Eddie Coppage retired as Harrison County Clerk on December 31, 2002;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby applaud Ralph Eddie Coppage for twenty-five years of dedicated service to the citizens of Harrison County. We understand that he is an avid golfer and a talented woodworker, and we wish him immeasurable success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Ralph Eddie Coppage upon his retirement as Harrison County Clerk.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Ralph Eddie Coppage, 220 North Church Street, Cynthiana, Kentucky 41031.

There being no objection **HR 65** was adopted.

Representative Couch moved to suspend the rules to introduce and act on a resolution. Agreed.

Introductions of Bills and Resolutions (Continued)

HR 68, by Representative Couch: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Christopher D. Mills.

Motions, Petitions, and Communications (Continued)

Representative Couch moved the adoption of the following **HR 68**:

HR 68, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Christopher D. Mills.

It is with heavy hearts and deep sadness we learn of the premature passing of Christopher D. Mills, and we pause in silent reverence for his soul.

WHEREAS, Christopher D. Mills was born on July 4, 1982, a native of Clay County, Kentucky, and he traversed these earthly bounds on January 7, 2003; and

WHEREAS, Christopher D. Mills was the loving son of Darrell and Pamela Smith Mills of Manchester; he was the loving brother of a sister, Kelli Ann Hoskins of Oneida, and two brothers, Joshua Mills of Blue Hole and Roger Dylan Bowling of Littleton; and he also leaves behind his loving paternal grandparents, James Mills of Berry, Alabama, and Ruth Mills of Blue Hole, and his loving maternal grandparents, Willie Ray and Jessie Smith of Littleton; and

WHEREAS, Christopher D. Mills was a member of New Home Baptist Church, he was a graduate of Clay County High School, he was employed by the Kentucky Department of Highways, and he was a member of the Kentucky National Guard; and

WHEREAS, in the aftermath of this tragic accident, we are reminded of the grief and suffering afflicted upon the family and friends of Christopher D. Mills, how precious he was to his loved ones, and how his loved ones have been denied the opportunity of witnessing him reach his full potential; and we are also reminded that a life spent worthily should be measured by deeds, not years, and through his compassion and genuine love and concern for his fellow man, Christopher D. Mills is worthy of the highest commendation; and

WHEREAS, the passing of Christopher D. Mills has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow and heartfelt sympathy upon the premature passing of Christopher D. Mills, and commend his loved ones to the solace of the Almighty during these dark and painful times.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Christopher D. Mills.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Darrell Mills, 308 Bowling Street, Manchester, Kentucky 40962.

There being no objection **HR 68** was adopted.

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 4**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of John Carl Whitehead and joins with Representative John A. Arnold, Jr. in expressing deepest sympathy to the Whitehead Family and all those who share in the loss of this distinguished citizen. Survived by his cherished wife, Nancy; beloved daughters, Missy and Sarah; mother, Kathleen; siblings, Barbara, Cynthia, Anita, Gary, David, and Ron; four grandchildren; and, a host of other family members and loved ones, this esteemed citizen is remembered on this day for the many and generous contributions he made to his family, friends and community. John Carl Whitehead will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this tenth day of January, in the year two thousand and three.

Legislative Citation No. 4 was adopted without objection.

Representative Stumbo moved to suspend the rules for Introductions of Bills and Resolutions and Committee Reports. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 213, by Representatives Ballard, Bruce, Gooch, Yonts Adkins, Cornett, Stumbo, Collins, and Nesler: AN ACT relating to tax credits for purchase of coal combustion by-product.

HB 214, by Representatives Palumbo, Jenkins, Marzian, Sims, Riggs, Rader, Webb, Wayne, Stein, Belcher, and Harper: AN ACT relating to animal cruelty.

HB 215, by Representative Nelson: AN ACT relating to motor vehicle license plates.

HB 216, by Representatives Pullin, Vincent, Adkins, and Webb: AN ACT relating to health insurance.

HB 217, by Representatives Nesler and Bratcher: AN ACT relating to directors of pupil personnel in local school districts.

HB 218, by Representatives Nesler, Geveden, Cherry, Gray, Buckingham, Marzian, Crenshaw, and Stumbo: AN ACT relating to the Purchase Area Regional Industrial Authority, Inc., making an appropriation therefor, and declaring an emergency.

HB 219, by Representatives J. Lee, Stumbo, and Collins: AN ACT relating to motor vehicle dealers.

HB 220, by Representatives Jenkins, Meeks, and Riggs: AN ACT relating to retirement.

HB 221, by Representative Jenkins: AN ACT relating to workplace violence.

HB 222, by Representative Wilkey: AN ACT relating to forfeiture of property.

HB 223, by Representative Rasche: AN ACT relating to the Kentucky Community and Technical College System.

HB 224, by Representative Cherry: AN ACT relating to directors of pupil personnel in local school districts.

HB 225, by Representative Edmonds: AN ACT relating to annuities.

HB 226, by Representative P. Clark: AN ACT relating to occupational license fees and taxes.

HB 227, by Representative P. Clark: AN ACT relating to penalties for a violation of traffic regulations.

HB 228, by Representative Richards: AN ACT relating to credit card solicitations.

HB 229, by Representative A. Arnold: AN ACT relating to the taxing authority of emergency services boards.

HB 230, by Representative A. Arnold: AN ACT relating to election officers.

HB 231, by Representative A. Arnold: AN ACT relating to elections and making an appropriation therefor.

HB 232, by Representative A. Arnold: AN ACT relating to vacancies in candidacy.

HB 233, by Representative A. Arnold: AN ACT relating to school board elections.

HB 234, by Representative McKee: AN ACT relating to traffic regulations.

HB 235, by Representative Hoover: AN ACT relating to crimes and punishments.

HB 236, by Representative Westrom: AN ACT relating to statistical data on crimes.

HB 237, by Representative Westrom: AN ACT relating to public safety.

HB 238, by Representatives Geveden, Marcotte, Belcher, Buckingham, DeWeese, Crall, Feeley, Cherry, and Barrows: AN ACT relating to county consolidation.

HB 239, by Representatives Riggs, Wayne, Bratcher, and Crimm: AN ACT relating to special license plates.

HB 240, by Representatives Stumbo, Webb, Bratcher, Adkins, Barrows, J. Adams, A. Smith, Thomas, Callahan, L. Clark, Gray, Coleman, Yonts, Palumbo, Wayne, Nesler, Stein, Moberly, J. Lee, Burch, Bather, J. Thompson, Marzian, A. Arnold, Buckingham, Pasley, Crimm, Wilkey, Cherry, Hoffman, Meeks, Jenkins, Ballard, and Graham: AN ACT relating to home loan protection.

HB 241, by Representatives Webb and Pasley: AN ACT relating to heating, ventilation, and air conditioning.

HB 242, by Representatives J. Lee, Stumbo, Weaver, Barrows, Nunn, Hoffman, Marzian, A. Smith, Moberly, Callahan, Belcher, Westrom, Bather, and Richards: AN ACT relating to the protection of adults.

HB 243, by Representatives Farmer, Edmonds, and Hoover: AN ACT relating to animal cruelty.

HB 244, by Representative Kerr: AN ACT relating to wrongful death actions.

HB 245, by Representative Kerr: AN ACT relating to the titling of motor vehicles.

HB 246, by Representative Kerr: AN ACT relating to traffic regulations.

HB 247, by Representative Lindsay: AN ACT relating to state government.

HB 248, by Representative Lindsay: AN ACT relating to state appropriations.

HCR 66, by Representative Cherry: A RESOLUTION urging the United States Congress, Department of Health and Human Services, and Food and Drug administration to limit, ban or otherwise impose strict standards on direct-to-consumer advertising of drugs by pharmaceutical companies.

HJR 67, by Representative Cherry: A JOINT RESOLUTION requesting the Kentucky Department of Education to provide education and training to school personnel regarding the use of psychotropic drugs as a part of children's treatment; urging the Cabinet for Families and Children to ensure that a parent's refusal to allow a child to receive psychotorpic drugs as a part of treatment not be used as the sole grounds for taking a child into custody; and requesting the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and Regional Mental Health Planning Councils to study the issues relating to psychotropic drugs in Kentucky.

Motions, Petitions, and Communications (Continued)

Representative Webb moved to withdraw **HB 179**. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 121**

Local Government: **HB 107**

Education: **HB 40, HB 49, HB 88, HCR 15, HB 140, HB 141, HCR 32, HCR 33, HCR 34, HCR 35, HCR 36, HCR 37, HCR 39, HCR 40, HCR 41, HCR 42, HCR 43, HCR 44, HCR 45, HCR 20**

State Government: **HB 5, HB 43, HB 53, HB 54, HB 78, HB 81, HB 163, HB 103**

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that the reading of the Journal dated January 10, 2003, be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HR 58**, by Representative Jeff Hoover:

HR 58, On page 41, after line 16, by deleting the new language on lines 17 through 19.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution:

HB 3, Representatives Cherry, Higdon, and Nesler

HB 7, Representative Cherry

HB 8, Representative Wilkey

HB 9, Representative Mobley

HB 10, Representative Bratcher

HB 36, Representatives Mobley and Webb

HB 52, Representative Bratcher

HB 57, Representative Cherry

HB 77, Representative Brinkman

HB 78, Representative Draud

HB 89, Representatives Edmonds, Hoover, Napier, B. Smith, and Westrom

HB 99, Representative McKee

HB 114, Representative Webb

HB 135, Representatives Adkins, Vincent, and Wilkey

HB 163, Representatives Draud, Feeley, and Webb

HB 174, Representative Yonts

HB 194, Representative Stein

HB 196, Representative Pullin

HB 212, Representative Bather

HJR 3, Representative Couch

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Services - Hearing - February 22, 2003, 10:00 AM - Cabinet for Families and Children

Government Contract Review Committee - upon adjournment - January 10, 2003

Budget Review Subcommittee on Economic Development - February 21, 2003, 1:00 PM

Adjournment

Representative Stumbo moved that the House adjourn until 12 noon, Tuesday, February 4, 2003.

The motion that the House adjourn until 12:00 noon., Tuesday, February 4, 2003, was adopted by voice vote.

TUESDAY, FEBRUARY 4, 2003

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Purple Heart Medals were presented to Charlie Frost and Jack Browning by General Leslie E. Beavers.

Introduction of Bills and Resolutions

HB 249, by Representative Vincent: AN ACT relating to insurance premium surcharges.

HB 250, by Representative De. Butler: AN ACT relating to optometrists.

HR 70, by Representative L. Clark: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ray B. Franklin.

HR 71, by Representatives Barrows, Richards, Callahan, L. Clark, and Stumbo: A RESOLUTION adjourning the House of Representatives in honor of Virginia G. Fox.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 196, 205, 213, 218, 222, 248**

Banking and Insurance: **HB 225, 240**

Economic Development: **HB 209**

Education: **HB 195, 199, 201, 217, 223, 224**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 230, 231, 232, 233**

Health and Welfare: **HCR 66, HJR 67**

Judiciary: **HB 200, 204, 207, 212, 214, 227, 235, 243, 244, 246, 247**

Labor and Industry: **HB 221, 228, 241**

Licensing and Occupations: **HB 210**

Local Government: **HB 197, 208, 226, 229**

Seniors, Military Affairs, and Public Safety: **HB 206, 237, 242**

State Government: **HB 203, 211, 216, 220, 236, 238**

Transportation: **HB 198, 202, 215, 219, 234, 239, 245, HJR 64**

House Floor: **HR 59, 63**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **HB 138, HB 139**

Education: **HB 223**

Representative Stumbo moved that **HB 44** be reassigned to the Committee on Banking and Insurance. Agreed.

Representative Stumbo moved that **HB 7** be withdrawn. Agreed.

Representative Stumbo moved that the posting be waived on **HB 28**. Agreed.

Representative Stumbo moved that the posting be waived on **HB 138, 139, 223, 157, 181, 145, 168, 21, 22, 52, 67, 72,** and **123**. Agreed.

Representative Stumbo moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 5**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Dr. Margaret Lewis and joins with Representative Gregory D. Stumbo in expressing deepest sympathy to the Lewis Family and all who share in the loss on the passing of this fine and esteemed citizen who was serving as director of the Morehead State University at Prestonsburg center. Having come to Kentucky in July 1992 from North Lake College in Irving, Texas, to administer MSU's largest regional campus, this talented administrator held a doctorate in adult and higher education from the University of North Carolina at Chapel Hill. Recognized by her peers as an educator who was exceptionally devoted to improving the resources for the students whose educational opportunities she was dedicated to improving and facilitating, she is credited with being instrumental in getting a $6.6 million regional post secondary education center built on the Prestonsburg Community College campus. The community and this great Commonwealth have suffered a profound loss with her passing. Dr. Margaret Lewis will long be remembered for her outstanding contributions to Morehead State University's Prestonsburg center and for her generous and compassionate interactions with the students she served with such skill and vision. Done in Frankfort, Kentucky, this fourth day of February, in the year two thousand and three.

Legislative Citation No. 5 was adopted without objection.

Representative Riner moved that the rules be suspended to introduce and to act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 74, by Representative Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of the brave astronauts who perished aboard the Space Shuttle Columbia on February 1, 2003.

Representative Riner moved the adoption of the following **HR 74**:

HR 74, A RESOLUTION adjourning the House of Representatives in loving memory and honor of the brave astronauts who perished aboard the Space Shuttle Columbia on February 1, 2003.

WHEREAS, the Kentucky House of Representatives is grateful to Almighty God for placing courage in the hearts and a thirst for knowledge in the minds of the Columbia crew, whose dedicated lives will continue to inspire the same qualities in this and future generations; and

WHEREAS, the Kentucky House of Representatives is grateful to Almighty God for giving young people the wonderful example of the Columbia crew who did not measure the worth of their profession by a paycheck, but by the value of their service to their countrymen; and

WHEREAS, the Kentucky House of Representatives is grateful to Almighty God for providing the present generation of young people with the role model of seven outstanding astronauts whose disciplined minds and bodies enabled them to accomplish extraordinary achievements; and

WHEREAS, the Kentucky House of Representatives is grateful to Almighty God for giving us Jesus Christ as the standard for measuring the worth of life in terms of duty, honor, and excellence rather than length of days;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses gratitude to Almighty God for the extraordinarily disciplined and dedicated lives of Lieutenant Colonel Michael P. Anderson, Commander Laurel Blair Salton Clark, Captain David M. Brown, Dr. Kalpana Chawla, Colonel Rick Douglas Husband, Commander William C. McCool, and Colonel Ilan Ramon who by their example challenge all of us to lead purposeful and virtuous lives characterized by commitment to duty, honor, and excellence.

Section 2. When the House of Representatives adjourns this 4th day of February in the year of our Lord 2003, it does so in honor of the Columbia shuttle crew.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the family of each crew member, c/o General Jefferson D. Howell, Jr., Center Director, NASA Johnson Space Center, 2101 NASA Road One, Houston, Texas 77058.

There being no objection, **HR 74** was adopted.

The roll call was opened for co-sponsors of **HR 74**, and on the roll call the vote was: **Yeas 88** (See February 4, 2003, roll call to show co-sponsors of HR 74 - Appendix).

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 251, by Representative Draud: AN ACT relating to real property transactions.

HB 252, by Representative Draud: AN ACT relating to national board certification.

HB 253, by Representative Yonts: AN ACT relating to hazardous duty retirement.

HB 254, by Representative Draud: AN ACT relating to the issuance of license plates to firefighters.

HB 255, by Representative J. Lee: AN ACT relating to traffic regulations.

HB 256, by Representative Yonts: AN ACT designating Muhlenberg County as the birthplace of thumb picking as a style of guitar playing.

HB 257, by Representative Yonts: AN ACT relating to revenue and taxation.

HB 258, by Representative Jenkins: AN ACT relating to advertisements for bids.

HB 259, by Representative Nelson: AN ACT relating to motor vehicle registration.

HB 260, by Representative Stewart: AN ACT relating to charitable gaming facilities.

HB 261, by Representative Gray: AN ACT relating to the operation of a motor vehicle.

HB 262, by Representative Gray: AN ACT relating to motor vehicle equipment.

HB 263, by Representative Lindsay: AN ACT relating to the Kentucky Rules of Evidence.

HR 72, by Representative Yonts: A RESOLUTION amending House Rule 45.

HJR 73, by Representative L. Clark: A JOINT RESOLUTION recognizing the impact of the Federal Energy Regulatory Commission's proposed Standard Market Design on the Commonwealth of Kentucky, encouraging Kentucky's United States Senators and Representatives to take all available measures to halt the adoption and implementation of the Standard Market Design in its current form, and requiring the Legislative Research Commission to prepare a cost-benefit analysis.

HJR 75, by Representative Lindsay: A JOINT RESOLUTION relating to the Criminal Justice Council.

HR 76, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of John William "J. W." Thompson.

HR 77, by Representative Richards: A RESOLUTION directing appointment of a committee to wait upon the Governor to receive his budget address.

Representative Stumbo moved that the rules be suspended to act on a Resolution. Agreed.

Representative Hoover moved the adoption of Floor Amendment No. 1 to **HR 58**. Agreed.

Representative Stumbo moved the adoption of the following **HR 58,** as amended:

HR 58, A RESOLUTION adopting Rules of Procedure to govern the 2003 Regular Session of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the following Rules of Procedure are adopted to govern the 2003 Regular Session of the House of Representatives:

Rule 1.Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2.Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3.Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The Clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of two-thirds of the members elected.

ORDER OF BUSINESS

Rule 4.Order of Business. The order of business shall be as follows:

1. Invocation.
2. Pledge of Allegiance.
3. Roll Call.
4. Reading and Approval of the Journal.
5. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
6. Report of Reference of Bills to Committees.
7. Report of Committees.
8. First Reading of Bills.
9. Second Reading of Bills.
10. Orders of the Day.
11. Motions, Petitions and Communications.
12. Announcements.
13. Adjournment.

No more than 30 minutes shall be allotted to Motions, Petitions and Communications.

Rule 5.Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6.Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7.Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8.Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9.Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote, unless the motion is made after the House has reached adjournment in the order of business under Rule 4, in which case adjournment shall be by voice vote unless a roll call is ordered by a majority of the members.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain a vote and shall not speak at all if the question is not a debatable question. The effect of the previous question shall be to put an end to debate on any pending amendment; to prevent the offering of additional amendments and to bring the House to an immediate vote upon any amendment that has been called and is in order. Once the previous question has been ordered, and any pending amendment has been voted upon, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes, before the vote upon the main question.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question, nor shall that motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken and the bill or resolution is in the possession of the House; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member. For purposes of this rule, a member who is recorded as "not voting" on a proposition which failed is considered to have voted on the prevailing side. Procedural motions, such as a motion to lay on the table or lay on the clerk's desk, shall not be subject to a motion to reconsider.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read upon the request of any member, with the concurrence of a majority of the members elected to the House, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall *be* absent ~~[himself]~~from a session of the House without leave from the House.~~[Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.]~~

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 22A. Point of Personal Privilege. To be in order, a point of personal privilege must relate to allegations regarding the rights, reputation, or conduct of a member personally, in the member's capacity as a representative, that, if true, would incapacitate them for membership. Members who have the floor after claiming a point of personal privilege shall confine themselves to defending their own rights, reputations, or conduct, and not those of other members. Members wishing to make general comments about pending legislation, media coverage, or other matters that would be out of order if raised as a point of personal privilege shall use Motions, Petitions, and Communications.

Rule 23. Call to Order. If any member, in speech or otherwise, transgresses the rules of order or decorum, the member shall immediately be called to order by the chair and shall be seated. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon the member until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at the member's seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and the presiding officer's signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. The Speaker shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize that member.

Any decision made by the Speaker shall be subject to appeal to the House. Every appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with the Commission to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and that Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chair of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference. ***The Director of the Legislative Research Commission shall implement a policy to provide for the maintenance and distribution of the records, papers, and bills of the legislative branch.***

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." The Sergeant-at-Arms shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Appointment and Conduct of Constitutional Employees. The constitutional employees of the House shall be appointed by election during the regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of the employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chair, the Majority Floor Leader of the House, the Majority [~~Party~~] Whip, and the Minority Floor Leader of the House. The Speaker shall be Chair of the Committee and the majority of the Committee shall have full power to act on all matters referred to the Committee, either by these rules or by the action of the House. All bills and joint or concurrent resolutions shall, upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction. Simple resolutions shall be referred to the appropriate committee or the floor of the House, in accordance with Rule 64.

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House:

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Economic Development
5. Education
6. Elections, Constitutional Amendments and Intergovernmental Affairs
7. Health and Welfare
8. Judiciary
9. Labor and Industry
10. Licensing and Occupations
11. Local Government
12. Natural Resources and Environment
13. Seniors, Military Affairs and Public Safety
14. State Government
15. Tourism Development and Energy
16. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chair, Vice-Chairs and the members of all standing and special committees and shall fill any vacancies thereon. In making the appointments to standing committees, the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in that previous regular session. That appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chair in the preceding regular session shall select for reappointment the committee the member so chaired if the member wishes to be considered for the chairmanship of that committee; if another selection is made, the member shall not be reappointed chair of the committee which the member chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chair of a standing committee. A chair of a standing committee or statutory committee shall not serve as a member of the Committee on Appropriations and Revenue. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice-Chair shall act in the absence of the Chair. The Chair of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees, the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than 29 members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Small Business:** matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects;~~[veterans bonus;]~~ claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking; banks and trust companies; ***consumer***~~[petty]~~ loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Economic Development:** matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising.

5. **Education:** matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation;~~[state]~~ universities and colleges; community colleges;~~[municipal universities and colleges;]~~ regional education; educational television.

6. **Elections, Constitutional Amendments and Intergovernmental Affairs:** matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purging of voters; regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions;

voting machines; absentee ballots; intergovernmental cooperation; state-federal relations; interstate compacts.

7. **Health and Welfare:** matters pertaining to human development, health, and welfare; delivery of health services; support of dependents; public assistance; child welfare; adoptions; children's homes; disabled persons; family welfare; aid to the blind; commitment and care of children; mental health; substance abuse; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics, and long-term care facilities; health professions; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; psychologists; optometrists, ophthalmic dispensers; physical therapists.

8. **Judiciary:** matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration;~~[summary proceedings;]~~ declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, circuit courts and district courts; ***family courts;*** jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries, attorneys; ~~[commissioners and]~~receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional facilities; civil rights; and juvenile matters.

9. **Labor and Industry:** matters pertaining to the work-force and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

10. **Licensing and Occupations:** matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment;~~[laundry and dry cleaning;]~~ alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and ***agents*** ~~[salesmen;]~~public accountants;~~[watchmakers;]~~ detection of deception examiners; auctioneers; business schools; warehouses~~[and warehousemen]~~; partnerships; trade practices.

11. **Local Government:** matters pertaining to the officers, organization, government and financing of city and county governments; city and county imposed taxes and licenses; special purpose assessment and taxing districts within a city; city revenue bond projects; city indebtedness; incorporation and classification of cities; forms of city government; ***charter county, urban-county, and consolidated local governments generally;*** county and special district debt; city and county finances and revenue; the imposition of duties and costs on cities and counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of city and county officers and employees; ***local government***~~[city and county employees']~~ civil service ***systems*** and ***local government*** retirement ***systems***; planning and zoning; interlocal cooperation and consolidation of local government services; county roads; public road districts; city streets and sidewalks; housing~~[projects]~~; ***manufactured housing;*** urban renewal and redevelopment; water districts; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; fire protection districts; police ***departments,***~~[and]~~ fire departments and ***local public safety agencies***~~[their retirement systems]~~; issuance of bonds for county and special district projects; sewers; metropolitan sewer and sanitation districts; local air pollution control districts; city and county libraries; library districts; annexation of territory; public works; parks and playgrounds.

12. **Natural Resources and Environment:** matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts~~[and local flood control and water usage]~~; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

13. **Seniors, Military Affairs and Public Safety:** matters pertaining to senior citizens; eliminating age discrimination; non-public sector retirement; problems of aging; violent acts against the elderly; military affairs and civil defense; national guard; veterans; retention of military bases; veterans' rights, benefits and education; veterans' nursing homes; military memorials and cemeteries; fire prevention and protection; foods, drugs and poisons; pure foods and drugs; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; garbage and refuse disposal.

14. **State Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; administrative organization; administrative regulations; ~~[statutory]~~administrative agencies; Department of Law; ***constitutional offices***~~[Secretary of State]~~; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; disaster and emergency services; state and regional planning; ~~[the]~~libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

15. **Tourism Development and Energy:** matters relating to tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism Cabinet; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel

development[~~, including synfuels~~]; energy waste disposal; Public Service Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol.[~~ Subcommittees of the Committee on Tourism Development and Energy shall include but not be limited to the Subcommittee on Tourism and the Subcommittee on Energy.~~]

16. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Transportation Cabinet; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chair, the Majority [~~Party~~]Whip, the Minority Floor Leader, the Minority Caucus Chair, the Minority [~~Party~~]Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. If a bill which includes incarceration as a possible penalty has been received by the Rules Committee from a standing committee other than the Committee on Judiciary, the bill shall be referred to the Committee on Judiciary. No bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the media only. No electronic devices of any nature, including cameras and recording devices, shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five legislative days. Within that time, each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions[~~ and shall call the same~~] for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which the member is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall ***be the***[~~ act as~~] Chair of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order the Majority Floor Leader deems proper and shall be recognized by the Speaker for that purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chair in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and ***Tourism***[~~Energy~~], Natural Resources and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

On four of the subcommittees, as designated by the Committee on Committees, four members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee, and three members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. On the remaining two subcommittees, either three or four members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House, and the remaining members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee. A member of the Committee on Appropriations and Revenue may, however, serve on no more than one standing subcommittee. The chair of each standing subcommittee shall be appointed by the chair of the Committee on Appropriations and Revenue from the membership of that committee on the particular standing subcommittee.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before a standing subcommittee.

The Committee on Committees may assign the chair of a standing committee as an ex officio non-voting member of a standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions~~[under the Rules of this House]~~.

Rule 44. Conference Committees. When a House bill has been amended in the Senate and the House refuses to concur in the amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in the amendment and when neither will recede from that action, the Committee on Committees shall appoint a Conference Committee to meet a like committee from the Senate. The Conference Committee shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a conference committee report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a free conference committee, consisting of three or more members. A free conference committee shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

A conference committee or free conference committee report shall be signed by a majority from each house or it shall not be in order.

Where both majority and minority conference or free conference reports are submitted, a motion to adopt the majority report shall first be considered and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails. Once the majority or minority report is adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 44A. Majority and Minority Caucuses. The Majority Caucus of the House of Representatives shall consist of all House members of majority party affiliation. The Minority Caucus of the House of Representatives shall consist of all House members of minority party affiliation. The majority and minority caucuses of the House of Representatives shall be committees, other than standing committees, of the House of Representatives and General Assembly.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Enrollment Committee and a Conference Committee between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Enrollment Committee may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairs, shall schedule a definite time and place for the regular weekly meetings of each committee, and that schedule shall be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. The Chair or a majority of any committee may call a special meeting in addition to those regularly scheduled.

The Chair shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. A standing committee may report a bill or resolution in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Standing and Special Committee Reports. It shall require a majority of the committee membership to report a bill or resolution. The chair shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chair may sign reports on behalf of a majority of the committee members. The chair's signature shall attest to the action of a majority, but shall not be construed as the chair's personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read. Where both majority and minority reports are submitted, a motion to adopt the majority report shall first be considered, and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails.

Rule 48. Discharge Petition. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, a member may sponsor and file with the Clerk a written request, signed by twenty-five or more members, to call the same up for consideration on the next succeeding legislative day after the filing of the request. The effect of this petition shall be to bring before the House the question of whether the committee to which the bill has been assigned has held the bill for an unreasonable time. Upon the motion of the member sponsoring the request, and if a majority of the members elected to the House concur that the bill has been held an unreasonable time, the bill shall be considered as though it had been regularly reported, and sent to the Rules Committee.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chair, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting, provided that no bill or resolution shall be posted by the chair or the committee by a majority vote unless and until a request for posting form has been filed with the committee chair or secretary and approved by the committee chair as containing satisfactory information. No measure shall be considered except those posted, unless the measure is one which has been recommitted to the same committee from which it was previously reported with a favorable expression. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chair or the committee shall occur during the first week of the session, and those bills may be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for those prefiled bills.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as seven distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used by committees; three copies shall be for the use of the media and shall be given to a person designated by the media; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the[~~ omission or~~] elimination of matter in an existing law, that[~~ omission or~~] elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be [~~omitted or~~]eliminated with a single line so as not to render those words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes, the sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each section as it appears in the Kentucky Revised Statutes. All bills recommending or reauthorizing a study by an interim committee, task force, or special committee of the Legislative Research Commission shall include the following language: "Provisions of this statute to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date." The Legislative Research Commission staff shall see that all bills introduced have been prepared through the computerized bill preparation system of the Legislative Research Commission.

Rule 51. Introduction of Bills. A member may introduce bills and resolutions by filing them with the House Clerk on the floor or in the Clerk's office at any time the office is open. The member filing the bill or resolution shall be the primary sponsor of the bill or resolution, and with the sponsor's permission, one member may sign the bill as primary co-sponsor. Other members may co-sponsor the bill or resolution only with the sponsor's permission and by filing the proper papers with the Clerk. A co-sponsor may withdraw co-sponsorship of the bill or resolution with or without the sponsor's permission by filing the proper papers with the Clerk. Bills and resolutions filed after the House has concluded the Introduction and Reading of New Bills, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The House Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee.

In a regular session in an even-numbered year, no bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. In a regular session in an odd-numbered year, no bill or resolution having the force of law shall be introduced after the fourteenth legislative day of the session.

The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. **Fiscal Statement.** A sponsor of a bill which, if enacted, would affect the revenues or expenditures of state government generally, may at any time by request cause the staff of the Legislative Research Commission to analyze and prepare a fiscal statement for the measure. The staff of the Legislative Research Commission shall analyze and prepare a fiscal statement for any bill which, if enacted, would fiscally affect local governments through the imposition of a local mandate; constitute a mandated health benefit; ***change the financial liability of any public retirement system administered by an agency of state government;*** or fiscally affect state or local corrections services in a significant manner, including any bill which would modify or create a criminal penalty or otherwise affect the population of a correctional system or facility.

The chair of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to posting. The chair or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill, or amendment thereof, prior to final committee action.

Members may require, by majority vote, that a fiscal statement be attached to any bill or amendment on the Orders of the Day relating to fiscal matters herein described. In that instance, the fiscal statement shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.

Rule 53. ***Fiscal Statements for Amendments.*** Any member proposing an amendment which relates to fiscal matters [~~herein~~]described ***in Rule 52*** may cause a fiscal statement to be prepared. A fiscal statement shall be considered a public document upon introduction of the bill or amendment for which it was prepared.[~~**Analysis of Administrative Regulation Promulgation Authority**. The sponsor of a bill which contains the authority for any agency, board, or political subdivision of state government to promulgate administrative regulations may at any time by request cause the staff of the Legislative Research Commission to prepare an analysis of the administrative regulation promulgation authority. The analysis shall include a summary of the measure, identification of governmental entities authorized to promulgate administrative regulations, and identification of subject matter for which administrative regulations may be promulgated. Any member proposing an amendment which relates to administrative regulation promulgation authority herein described may cause an analysis to be prepared. An analysis shall be considered a public document upon introduction of the bill or amendment for which it was prepared. The chairman of the committee to which a bill has been referred may require that the analysis be attached to the bill prior to posting. The chairman or a majority of the committee to which a bill has been referred may require that the analysis be attached to the bill, or amendment thereof, prior to final committee action. Members may require, by majority vote, that an analysis be attached to any bill or amendment on the Orders of the Day relating to administrative regulation promulgation authority herein described. In that instance, the analysis shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.~~]

Rule 54. **Reference of Bills.** The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it shall be referred to the Rules Committee. In these instances, the Clerk shall distribute copies of the bill and its proposed amendment to each member of the Rules Committee. The Rules Committee may post these bills to the Orders of the Day for consideration of the amendment, and final passage, giving precedence to these bills over all other matters posted. When bills with amendments for concurrence are reached in the Orders of the Day, the Speaker shall first put the question of concurrence in the amendment, whereupon if that is favorable, the bill shall be put immediately upon its final passage. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

[~~**Retention of Administrative Regulation Promulgation Authority Analyses.** The Director of the Legislative Research Commission shall cause analyses prepared pursuant to Rule 53 to be filed for informational purposes with the Administrative Regulations Compiler of the Legislative Research Commission.~~]

Rule 55. **Printing of Bills.** Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least 200 copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 56. **Readings of Bills.** If a bill be reported with the expression of opinion that it should not pass, a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 57. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from the committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in that Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chair.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of those bills to the Consent Orders for a day certain. On that day, the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in those Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chair. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff a "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, the bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 58. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their first reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 59. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, or a Senate bill has been amended in the House, but the Senate refuses to concur, and the House recedes from its amendment, the bill shall immediately be placed upon its passage.

Rule 60. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. An amendment prepared for one member but signed by another shall be considered the amendment of the member signing the amendment. All amendments shall give the proper page and line of the printed bill. An original and six copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a bill under consideration containing the substantial text of the language of any other bill introduced during the session shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause those amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of any other bill introduced during the session, the Speaker shall rule thereon, subject to appeal to the House.

A committee substitute, upon its adoption, shall be considered as the original bill for purposes relating to the permissible degree of further amendment of the bill.

A proposal to amend the title of a bill shall be by separate title amendment. The question of adoption of an offered title amendment for a bill shall be presented to the body immediately after adoption of the bill.

A proposal to amend the Constitution of Kentucky shall be introduced as a bill, and no such proposal shall be in order if it is offered as an amendment to any bill.

If a proposed floor amendment to a branch budget bill will result, if adopted, in a loss of revenues or an increase in expenditures for a budget unit, the amendment shall specify by budget unit the amount and source of funds that will offset the loss of revenues or specify the budget unit or other source of funds that will support the increased expenditures. If a budget unit or other source of funds is specified, the amendment shall include all necessary language to effect the changes. It shall be out of order for a floor amendment to a branch budget bill to: (a) specify in general language that funds to support the change shall come from broadly defined sources, such as the budget of a particular cabinet, branch of government, or multiple unrelated budget units, unless the effect on each of these is specifically defined by program and amount; (b) require or permit any other branch or unit of government to determine which specific programs would be affected; or (c) reduce the Budget Reserve Trust Fund.

Rule 61. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by the Clerk, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 62. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

If a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross those amendments in the original copy of the bill by typing or may generate a replacement original copy of the House bill through computerized process, before delivering the bill to the Enrolling Clerk of the House.

In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy can be produced, the Enrolling Clerk may enroll the bill or resolution by typing the same.

The original bill or resolution or replacement therefor, if applicable, and an enrolled copy shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each is in the exact form as finally passed prior to their delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 63. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chair of the Enrollment Committee of the Senate for presentation to the President of the Senate for the President's signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for the Governor's approval and take a receipt for same.

Rule 64. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. A simple resolution expressing the will of the House shall upon its introduction be automatically referred to the Committee on Committees, which may refer it to the floor if it is honorary, benevolent, and does not direct further action; otherwise, it shall be referred to a standing committee. Simple resolutions referred to a standing committee may be considered for adoption only after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. A resolution shall not be accepted for introduction if offered in lieu of a legislative citation. No resolution shall be considered unless it shall have been distributed to all members. All resolutions recommending or reauthorizing a study by an interim committee, task force, or special committee of the Legislative Research Commission shall include the following language: "Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date." All resolutions recommending or reauthorizing a study, or which recommend or reauthorize creation of a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 65. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications."

VOTING

Rule 66. Roll Call. Any member, with a second, may require a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, that vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 67. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of the question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining a vote. No member shall be allowed to speak more than three minutes to explain a vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change their vote?" And after sufficient pause shall lock the roll call system and instruct the Clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of the member's individual vote as registered opposite the member's name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The Clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 68. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to any penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in a manner as the House may determine. If a person not a member shall vote or attempt to vote for any member, that person shall be barred from the floor of the House for the remainder of the session and may be further punished in any manner as the House may deem proper, in addition to the punishment as may be prescribed by law.

Rule 69. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 70. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after the yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 71. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide news media correspondents shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a media section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the gallery not reserved for members' families.

Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 72. Restriction of lobbying and access to the House Chambers and office areas. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House gallery by any person.

A sign, poster, or any other object, the purpose of which can be reasonably construed to indicate support or opposition to any measure before the House, and which is large enough to be generally visible from the House floor, shall not be permitted in the gallery.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from a member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol and the third and fourth floors of the Capitol Annex.

Rule 73. Restrictions. For purposes of this rule, "material" shall mean any letter, report, writing, article, booklet, pamphlet, image, photograph, object, or any other item, including any physical object or electronic transmission containing audio, video, or electronic communication, which is requested to be placed upon either the desk of a member on the House floor or in a member's office in the Annex. This material shall not be distributed unless the party interested in the distribution of the material is clearly and physically identified on the material to be distributed. All this material shall conform to accepted public taste, shall contain no matter appealing to prurient interest or without redeeming social value, and shall uphold the dignity of the legislative process. Material originating from the general public shall be delivered to the administrative offices of the Legislative Research Commission or the Clerk of the House and shall upon direction of the Clerk, after inspection, be placed on the members' desk in the Capitol Annex provided the following conditions are met:

(1) Unless 100 copies are provided, all material should be individually addressed to each member expected to receive a copy;

(2) If several pages or items are to be provided to each member, they should be securely fastened or placed together in an envelope; and

(3) Sufficient copies of all material should be provided; staff shall not make additional copies of material.

Material that may be distributed by the Clerk in the House Chamber is restricted to official communications relating to pending legislation or the operation of the House, material sent by a member clearly identified on the face of the material or its attachments to any other member, or other material as designated by the Speaker's Office. The Sergeant-at-Arms shall be charged with the duty of ensuring that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of materials shall be referred to the Committee on Committees for resolution. Any material distributed by unauthorized individuals shall be collected from the members' desks and treated as litter, and any material submitted but not distributed that is unclaimed after one week shall be discarded. Material which is received via e-mail or received on diskette with a request for distribution electronically by LRC staff shall be refused or returned to the sender. Nothing in this rule restricts the right of any person to communicate directly with any member, either electronically or through the United States mail.

RULES

Rule 74. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 75. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

There being no objection, **HR 58** was adopted.

Representative Barrows moved that the rules be suspended to act on a Resolution. Agreed.

Representative Barrows moved the adoption of the following **HR 71**:

HR 71, A RESOLUTION adjourning the House of Representatives in honor of Virginia G. Fox.

WHEREAS, it seems appropriate from time to time for this honorable body to reflect upon the contributions of special Kentuckians who have enriched the lives of so many people; and

WHEREAS, Virginia G. Fox, a native of Fleming County, Kentucky, and seventh-generation Kentuckian, is a graduate of

Morehead State University, with a master's degree from the University of Kentucky; and

WHEREAS, Virginia G. Fox has devoted 42 years to education and public broadcasting, and she has been affiliated with Kentucky Educational Television (KET) since its inception in 1968; and

WHEREAS, Virginia G. Fox served as one of KET's first GED ON TV series which has been used by more than a million learners nationwide; she has served as KET Deputy Executive Director and, from 1991 through 2002, she has served as KET Executive Director and CEO; and

WHEREAS, under the auspices of Virginia G. Fox, KET turned on the first digital transmitter in Kentucky and one of the first in the nation, and recently completed its transition to full digital broadcasting a year ahead of the Federal deadline; KET also produced GED Connection, its GED series, which reaches 87 % of American households, and Virginia G. Fox has fostered hundreds of partnerships between KET and other public and private organizations for the betterment of Kentucky; and

WHEREAS, Virginia G. Fox is the first and only female CEO of a national organization in public broadcasting, and she is the first public broadcasting representative appointed to the Independent Television Service Board; she is the creator of the first National ITV Satellite Schedule which serves more than 23 million distance learning students annually, she is the creator of SERC, the first public broadcaster/Department of Education interstate consortium for distance learning, and she is the founding director of the Organization of State Broadcasting Executives; and

WHEREAS, Virginia G. Fox was inducted into the Kentucky Journalism Hall of Fame, and she has been the recipient of many other awards, including the 1995 Appalachian Woman of the Year by Morehead State University; the 21st Century Award from America's Public Television Stations; an honorary doctorate degree from Morehead State University; and she was listed in Lane Report's Top 40 Women in Central Kentucky for 1993 and 1994; and

WHEREAS, Virginia G. Fox has chaired the boards of Public Television Outreach Alliance, Infinite OutSource, Inc., the National Educational Telecommunications Association, and the University of Kentucky School of Journalism Board of Visitors; she has served on the Kentucky Science & Technology Council, and on the boards of the Public Broadcasting Service, Fifth Third Bank, OnCourse Education Services, New Cities Foundation, Partnership for Kentucky Schools, United Way of the Bluegrass, Bluegrass State Games, Mountain Laurel Festival, and the organization of State Broadcasting Executives, as well as numerous other committees and commissions; and

WHEREAS, Virginia G. Fox has been active in many civic, professional and educational organizations, as consultant, adviser, and volunteer; she has demonstrated herself to be a true visionary, and her tireless dedication and profound commitment to educational television has enlightened and improved the quality of life of many Kentuckians;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is proud and honored to recognize Virginia G. Fox for her dedicated service to the institution of public television. Her contribution to the quality of education in Kentucky is beyond measure and will have lasting impact.

Section 2. This honorable body expresses its appreciation to Virginia G. Fox for her many accomplishments during her impressive career in education and public broadcasting, and for the distinction she has brought to the Commonwealth of Kentucky.

Section 3. When the House of Representatives adjourns this day, it does so in honor of Virginia G. Fox, educator, visionary, and public servant.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Virginia G. Fox, Executive Director/CEO, Kentucky Educational Television, 600 Cooper Drive, Lexington, Kentucky 40502.

There being no objection, **HR 71** was adopted.

Representative Montell moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Montell moved the adoption of the following **Legislative Citation No. 6**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of James Alvin "Jay" Carriss and joins with Representative Brad Montell in expressing deepest sympathy to the Carriss Family and all who share in the loss upon the passing of this hard-working and highly-regarded gentleman, a resident of Southville, Kentucky. The owner of Carriss' Grocery, a popular local store that served home-cooked-style lunches, Mr. Carriss also farmed land off Martin-Nethery Road, where he raised both cattle and tobacco. This generous man who was dedicated to making people feel important and special, lost his life after suffering a heart attack during the events surrounding a burglary at his store. Deepest condolences are extended to his beloved wife, Bessie Mae Carriss, and his devoted children, Magistrate Tony Carriss and Vivian

Lisby. Honored and remembered on this day for the many lasting contributions he made to his family and community and for the lifetime of cherished memories he leaves with his many friends, James Alvin "Jay" Carriss will be deeply missed and forever held dear in the hearts of those who had the good fortune of knowing him. Done in Frankfort, Kentucky, this fourth day of February, in the year two thousand and three.

Legislative Citation No. 6 was adopted without objection.

Representative Draud moved that **HB 44** be withdrawn. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 7**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Mary Bell Hellard and joins with Representative Danny Ford in extending sincere condolences to all those who mourn the passing of this cherished resident of Mount Vernon, Kentucky. She is survived by her beloved children, a son, Shannon Hellard, and a daughter, Faye Thomason, and a host of other family members and friends. Mary Hellard was a loving mother, grandmother and housewife; a faithful member of the First Baptist Church, and an outstanding citizen who will long be remembered and forever held dear in the hearts of those who loved her. She will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this fourth day of February, in the year two thousand and three.

Legislative Citation No. 7 was adopted without objection.

Representative L. Clark moved the adoption of the following **HR 70**:

HR 70, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ray B. Franklin.

With deepest respect and admiration, we pay homage and tribute to Ray B. Franklin, and we pause in silent reverence for his soul.

WHEREAS, Ray B. Franklin was born on October 6, 1946, a native of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds on December 12, 2002; and

WHEREAS, Ray B. Franklin was the loving son of Florence Grace Radford Franklin and the late Edward Franklin; he was the devoted husband of Edith Cottner Franklin; he was the adored father of twin daughters, Andrea Franklin Renfrow of Shepherdsville and Angela Franklin Binkley of Beaufort, South Carolina; and he also leaves behind a loving brother, Charlie Franklin of Louisville; and

WHEREAS, Ray B. Franklin was an active and involved citizen who had a long and successful career in law enforcement that included 24 years as a detective with the City of Louisville Police Department; he was a long-time member of the Fraternal Order of Police, first serving as the president of Louisville Lodge #6 from 1987 to 1995; he served as secretary of the state Fraternal Order of Police from 1993 to 1999; and during that same period, he was elected to the Grand Lodge Fraternal Order of Police Executive Board in 1995 as sergeant-at-arms, serving in this position until he was elected second vice-president in 2001; and

WHEREAS, Ray B. Franklin held the title of director of special investigations for the Kentucky Attorney General's Office from January 1996 through August 1996; he was director of security for the Kentucky State Fair Board from August 1996 through May 1998; he was named director of Kentucky's Department of Charitable Gaming in 1998, after which time Governor Paul Patton appointed him to the commissioner's position in 1999; and

WHEREAS, the passing of Ray B. Franklin has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Ray B. Franklin, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ray B. Franklin.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Edith Cottner Franklin, 7503 Abbot Glen Drive, Crestwood, Kentucky 40014.

There being no objection, **HR 70** was adopted.

Representative L. Clark moved to withdraw **HCR 10**. Agreed.

Representative Rasche moved to withdraw **HCR 38** and **HCR 31**. Agreed.

Representative Richards moved that the rules be suspended to introduce and to act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 87, by Representative Richards: A RESOLUTION adjourning the House of Representatives in honor of foster and adoptive children serving as Pages on February 4, 2003.

Representative Richards moved the adoption of the following **HR 87**:

HR 87, A RESOLUTION adjourning the House of Representatives in honor of foster and adoptive children serving as Pages on February 4, 2003.

WHEREAS, the Commonwealth of Kentucky is indeed fortunate to have compassionate and loving individuals willing to serve as foster and adoptive parents; and

WHEREAS, the foster and adopted children have the wonderful opportunity of growing up in a loving environment; and

WHEREAS, social services staff is an integral part of foster and adoptive families and children, and without the support of social services staff, life would be very difficult for these families and children; and

WHEREAS, the House of Representatives welcomes Pages Maria Bowles, Jennifer Payne, Christina Harvey, Tracey Jones, Shaun Thurby, Anthony Williams, Donnie Woodall, and Dessi Gulley;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby applaud foster and adoptive parents and children and the social services staff that supports them in the Commonwealth of Kentucky. We are proud and honored to welcome these foster and adopted children as Pages for this honorable body.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the foster and adopted children serving as Pages in the House of Representatives on February 4, 2003.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Shirley Hedges, 608 Hanson Street, Madisonville, Kentucky 42431.

There being no objection, **HR 87** was adopted.

Representative Stumbo moved that the rules be suspended to introduce and to act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 96, by Representatives Stumbo and Hoover: A RESOLUTION the House of Representatives in loving memory and honor of James W. Lambert.

Representative Stumbo moved the adoption of the following **HR 96**:

HR 96, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James W. Lambert.

With deepest respect and admiration, we pay homage and tribute to James W. Lambert, our friend and colleague, and we pause in silent reverence for his soul.

WHEREAS, James W. Lambert was born on April 6, 1915, a native of Mount Vernon, Rockcastle County, Kentucky, and he traversed these earthly bounds on February 2, 2003; and

WHEREAS, James W. Lambert was the loving son of the late James H. and Mary Wheeler Lambert; he was the devoted husband of the late Ruth Hilton Lambert; he was the adored father of two sons, Joseph E. Lambert and James H. Lambert; and he was the proud grandfather of three grandchildren; and he also leaves behind two loving sisters, Nancy Williams of Berea, and Dorothy Lambert of Augusta, Georgia; and

WHEREAS, James W. Lambert served his country with honor and distinction in the United States Navy during World War II in the Pacific Theater; and

WHEREAS, James W. Lambert attended Berea College and was a graduate of the University of Kentucky College of Law, after which time he returned to Rockcastle County to practice law, and for many years, he served as Rockcastle County Attorney; and

WHEREAS, James W. Lambert was an esteemed member of the Rockcastle County community where he was a member of Mount Vernon Baptist Church; he was an active and involved citizen, and was a director of the Rockcastle Hospital and Respiratory Care Center for over 30 years; he had been director of the Bank of Mount Vernon and Berea National Bank; and he was a 32nd degree Mason and a member of the Mount Vernon Lions Club; and

WHEREAS, our friend and colleague, James W. Lambert, was successfully elected to four consecutive terms in the Kentucky House of Representatives, where he served as House Minority Leader in 1952 and 1954, and in 1956, he was a member of the Kentucky Constitution Revision Assembly; during his tenure with the Kentucky General Assembly, he represented his constituents with pride and honesty while exemplifying dedication, professionalism, and high standards; and his extraordinary vision and leadership brought light and inspiration to so many lives, and his commitment to justice, civility, and truthfulness will endure beyond measure; and

WHEREAS, the passing of James W. Lambert has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of James W. Lambert, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James W. Lambert.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Chief Justice Joseph E. Lambert, Supreme Court of Kentucky, 700 Capitol Avenue, Second Floor-Capitol, Frankfort, Kentucky 40601.

There being no objection, **HR 96** was adopted.

The roll call was opened for co-sponsors of **HR 96**, and on the roll call the vote was: **Yeas 99** (See February 4, 2003, roll call to show co-sponsors of HR 96 - Appendix).

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 264, by Representatives Embry and Coleman: AN ACT relating to compulsive gambling, making an appropriation therefor and declaring an emergency.

HB 265, by Representatives L. Clark, Yonts, Jenkins, Geveden, and Wilkey: AN ACT relating to nuclear transplantation.

HB 266, by Representatives Upchurch, Ford, Turner, Hoover, and Higdon: AN ACT relating to children.

HB 267, by Representative Palumbo: AN ACT relating to reorganization.

HB 268, by Representatives Palumbo and Marcotte: AN ACT relating to licensing massage therapists.

HB 269, by Representatives Stumbo, Moberly, Barrows, Callahan, L. Clark, and Richards: AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

HB 270, by Representatives J. Lee and Nunn: AN ACT relating to mental retardation and developmental disabilities.

HB 271, by Representatives Rasche and Geveden: AN ACT relating to the naming of colleges in the Kentucky Community and Technical College System.

HB 272, by Representative Burch: AN ACT relating to emergency management.

HB 273, by Representatives B. Smith, Fischer, Harmon, Cornett, A. Smith, Brinkman, and Ford: AN ACT designating the official state Daniel Boone portrait.

HB 274, by Representatives Stein and Marzian: AN ACT relating to child booster seats.

HB 275, by Representative Stein: AN ACT relating to safety and security officers at institutions of higher education.

HB 276, by Representative Stein: AN ACT relating to child support.

HB 277, by Representative B. Smith: AN ACT relating to the lottery.

HB 278, by Representatives Marzian and Stein: AN ACT relating to health insurance coverage for contraceptives.

HB 279, by Representative Marzian: AN ACT relating to school health services.

HB 280, by Representatives Pasley and Comer: AN ACT relating to the Department of Agriculture.

HB 281, by Representatives Pasley and Dw. Butler: AN ACT relating to the Motorcycle Advisory Commission for Highway Safety.

HB 282, by Representative McKee: AN ACT relating to gasoline and special fuels taxes.

HB 283, by Representative McKee: AN ACT authorizing public university safety and security officers to aid law enforcement agencies in another county and specifying conditions therefor.

HB 284, by Representatives Wilkey and Thomas: AN ACT relating to the Tobacco Master Settlement Agreement.

HB 285, by Representative Gooch: AN ACT relating to taxation, making an appropriation therefor, and declaring an emergency.

HB 286, by Representative Gooch: AN ACT relating to coal.

HB 287, by Representatives Damron, Westrom, and A. Arnold: AN ACT relating to mortgage loans.

HB 288, by Representatives Damron and Thompson: AN ACT relating to the identification of certified volunteer firefighters.

HB 289, by Representatives Damron and Thompson: AN ACT relating to construction defect claims asserting property loss and damage.

HB 290, by Representative R. Adams: AN ACT relating to special license plates.

HB 291, by Representative Baugh: AN ACT relating to health regulations for nonpublic schools.

HB 292, by Representative Burch: AN ACT relating to graduated driver's licenses for teenagers.

HB 293, by Representatives Moberly and Belcher: AN ACT relating to revenue and taxation.

HB 294, by Representative Moberly: AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth and its various officers, boards, commissions, subdivisions, and other state-supported activities.

HB 295, by Representative Richards: AN ACT relating to military discharge papers.

HB 296, by Representatives Wayne and Marcotte: AN ACT relating to alternative construction delivery methods for capital projects.

HB 297, by Representative Riggs: AN ACT relating to fire safety.

HB 298, by Representative Riner: AN ACT relating to local government employment procedures.

HB 299, by Representative Riner: AN ACT relating to breast-feeding.

HB 300, by Representatives Nelson and Hall: AN ACT relating to the motor vehicle usage tax.

HB 301, by Representatives Nelson and Hall: AN ACT relating to the posting of state jobs.

HB 302, by Representatives Nelson and Hall: AN ACT relating to school facilities.

HB 303, by Representative Stumbo: AN ACT relating to Veterans Day.

HB 304, by Representative Stumbo: AN ACT relating to highways.

HB 305, by Representative Thomas: AN ACT relating to fertilizer.

HB 306, by Representative Crenshaw: AN ACT relating to the records of Public Service Commission proceedings.

HB 307, by Representatives Nunn and Draud: AN ACT relating to children committed to the custody of the state.

HB 308, by Representatives Weaver, L. Clark, and Cornett: AN ACT relating to security of vital records.

HB 309, by Representative Weaver: AN ACT relating to wireless communications.

HJR 78, by Representative Couch: A JOINT RESOLUTION naming a segment of United States Route 421 in Leslie County in honor of Carl Wilson.

HR 79, by Representatives Nunn, Napier, Crimm, and Siler: A RESOLUTION relating to current military actions of the United States Armed Forces.

HR 80, by Representatives Nunn, Graham, Napier, and Barrows: A RESOLUTION adjourning the House of Representatives in honor of Stewart Home School.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 21, 22, 52, 67, 72, 123, 145, 168**

Banking and Insurance: **HB 94**

Economic Development: **HB 119**

Transportation: **HB 11, 18, 38, 63, 124, 131, 219, HJR 3, 7, 25, 28, HCR 30, HJR 55, HR 64**

State Government: **HB 157, 181**

Agriculture and Small Business: **HB 3, 59**

Local Government: **HB 132, 144, 154, 51**

Seniors, Military Affairs and Public Safety: **HB 30, HJR 13, HB 46, HCR 56, HB 117, 206**

Introduction of Bills and Resolutions (Continued)

HB 310, by Representative Weaver: AN ACT relating to driver training and declaring an emergency.

HB 311, by Representative Weaver: AN ACT relating to venue for the adjudication of a criminal offense or a civil action, including a boundary dispute, arising from an act committed against state military training land.

HB 312, by Representative Gray: AN ACT relating to chiropractors.

HB 313, by Representative Wayne: AN ACT relating to the Executive Branch Ethics Code.

HB 314, by Representative Nunn: AN ACT relating to retirement.

HB 315, by Representative Nunn: AN ACT relating to absentee ballots.

HB 316, by Representative Nunn: AN ACT proposing amendments to the Constitution of Kentucky relating to health care matters.

HB 317, by Representative Geveden: AN ACT relating to the Governor's Office for Technology.

HB 318, by Representative Montell: AN ACT relating to retirement.

HB 319, by Representative Montell: AN ACT relating to replacement candidates.

HB 320, by Representative Siler: AN ACT relating to participation of Head Start teachers in the Kentucky Teachers' Retirement System.

HB 321, by Representative Westrom: AN ACT relating to employment.

HB 322, by Representatives Edmonds, Stacy, and A. Arnold: AN ACT creating an additional Circuit Court judgeship in the Thirty-ninth Judicial Circuit.

HB 323, by Representative P. Clark: AN ACT relating to airport safety and security.

HB 324, by Representative P. Clark: AN ACT relating to real property conveyances.

HB 325, by Representatives Miller, Siler, Horlander, P. Clark, L. Clark and Hoffman: AN ACT relating to Kentucky educational excellence scholarship awards.

HB 326, by Representatives Miller, Siler, Horlander, P. Clark, Hoffman, and L. Clark: AN ACT relating to leaves of absence for teachers.

HB 327, by Representatives Miller, Siler, Walton, Horlander, Dw. Butler, P. Clark, Hoffman, and L. Clark: AN ACT relating to the Kentucky Teachers' Retirement System.

HB 328, by Representatives Westrom and Palumbo: AN ACT relating to licensing of primary care centers.

HB 329, by Representative Geveden: AN ACT relating to retirement.

HB 330, by Representative Cherry: AN ACT relating to sexual offenders.

HB 331, by Representative Wayne: AN ACT relating to the executive branch ethics code.

HR 81, by Representative McKee: A RESOLUTION adjourning the House of Representatives in honor of Ed Miller upon the occasion of his retirement from the Kentucky General Assembly.

HJR 82, by Representative Moberly: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HJR 83, by Representative Moberly: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HCR 84, by Representatives McKee and Thomas: A CONCURRENT RESOLUTION confirming the appointment of Daniel C. Case to the Kentucky Agriculture Development Board.

HCR 85, by Representatives Thomas and Pullin: A CONCURRENT RESOLUTION creating the Kentucky Rural Issues Task Force.

HCR 86, by Representatives Bruce and Thomas: A CONCURRENT RESOLUTION confirming the appointment of Wayne Hunt to the Kentucky Agricultural Development Board.

HCR 88, by Representative Geveden: A CONCURRENT RESOLUTION confirming the appointment of Brian Van Horn to the Kentucky Long-Term Policy research Center Board.

HCR 89, by Representative Geveden: A CONCURRENT RESOLUTION confirming the reappointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board.

HJR 90, by Representative Gooch: A JOINT RESOLUTION memorializing former State Representative Richard "Hoppy" Hopkins.

HJR 91, by Representative Gooch: A JOINT RESOLUTION memorializing former State Senator Gates F. Young.

HJR 92, by Representative Gooch: A JOINT RESOLUTION memorializing Amber Henton Hardin.

HJR 93, by Representative Gooch: A JOINT RESOLUTION naming Kentucky Route 81 in McLean County in honor of John Rowan.

HJR 94, by Representative Gooch: A JOINT RESOLUTION memorializing Absalom Redmon Shacklett.

HR 95, by Representatives Comer and Geveden: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Raymond Graham "Ray" Mullinix.

HJR 97, by Representatives Ballard and Bruce: A RESOLUTION naming the "Dr. Loman C. Trover Highway" in Hopkins County.

HCR 98, by Representatives Wayne, Marzian, and Burch: A RESOLUTION creating the Task Force on Health Care and Health Insurance Costs.

HCR 99, by Representatives Buckingham, Pullin, Gray, McKee, Yonts, Gooch, Hall, and J. Arnold: A CONCURRENT RESOLUTION directing a study of coalbed methane and declaring an emergency.

Floor Amendments

Floor Amendment No. 1 Title to **HB 37**, by Representative Stumbo:

HB 37, Amend the title to read as follows: "AN ACT relating to increasing license fees to improve the infrastructure of and services provided by the Department of State Police."

Motions, Petitions, and Communications

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 3, Representatives Montell and Westrom

HB 9, Representative Embry

HB 14, Representatives Burch, Palumbo, and Westrom

HB 17, Representative Comer

HB 27, Representative Stumbo

HB 29, Representatives Cornett, Embry, Feeley, Ford, Harmon, Harper, Higdon, Mobley, and Vincent

HB 30, Representatives Denham and Vincent

HB 36, Representatives Denham and Westrom

HB 45, Representative L. Clark

HB 46, Representative L. Clark

HB 47, Representative L. Clark

HB 57, Representative Denham

HB 58, Representative Jenkins

HB 69, Representative Webb

HB 70, Representative Westrom

HB 77, Representatives J. Adams, Webb, and Westrom

HB 89, Representative Riner

HB 97, Representative J. Adams

HB 99, Representatives Stein and Westrom

HB 100, Representative Webb

HB 114, Representative Embry

HB 145, Representative Feeley

HB 147, Representative Westrom

HB 163, Representatives Brinkman, Stewart, and Westrom

HB 168, Representative Crenshaw

HB 180, Representatives Feeley and Wayne

HB 196, Representatives Belcher, Denham, and Haydon

HB 213, Representatives A. Smith and B. Smith

HB 228, Representative Denham

HB 237, Representatives Brinkman, Burch, Feeley, Graham, Harper, and Riggs

HB 281, Representative Hoffman

HB 287, Representative Pasley

HB 289, Representative Palumbo

HB 320, Representative Couch

HJR 75, Representatives Crenshaw and Wilkey

The following members have filed a request to have their names withdrawn as co-sponsors of Bills:

HB 176, Representative Comer

HB 240, Representatives J. Adams, Crimm, and Yonts

Announcements

The following meetings were announced:

Budget Subcommittee Chairs: 2:30 p.m., Room 332A, today

State Government Committee: Room 131, upon adjournment

Tourism Committee, Wednesday: February 5, 2003, 9 a.m.

Licensing and Occupations Committee: Wednesday, February 5, 2003, Noon

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Wednesday, February 5, 2003.

The motion that the House adjourn until 2 p.m., Wednesday, February 5, 2003, was adopted by voice vote.

WEDNESDAY, FEBRUARY 5, 2003

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Bather, Gooch, and Haydon.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Tuesday, February 4, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HR 100, by Representative Edmonds: A RESOLUTION commending Experience Works.

HR 101, by Representative J. Arnold: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Payton Michael McElroy.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 280, 284, 305, HCR 84, 85, 86**

Appropriations and Revenue: **HB 257, 264, 269, 277, 282, 285, 293, 294, 300, HJR 82, 83**

Banking and Insurance: **HB 251, 278, 287**

Economic Development: **HB 267**

Education: **HB 252, 266, 271, 275, 279, 302, 303, 320, 325, 326, 327**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 315, 316, 319**

Health and Welfare: **HB 250, 270, 272, 291, 299, 307, 308, 312, 328, HCR 98**

Judiciary: **HB 263, 265, 276, 289, 311, 322, 324, 330, HJR 75**

Labor and Industry: **HB 321**

Licensing and Occupations: **HB 260, 268**

Local Government: **HB 249, 258, 283, 288, 298**

Natural Resources and Environment: **HB 286**

Seniors, Military Affairs, and Public Safety: **HB 295, 309**

State Government: **HB 253, 256, 273, 296, 297, 301, 313, 314, 317, 318, 329, 331, HCR 88, 89**

Tourism Development and Energy: **HB 306, HJR 73, HCR 99**

Transportation: **HB 254, 255, 259, 261, 262, 274, 281, 290, 292, 304, 310, 323, HJR 78, 90, 91, 92, 93, 94, 97**

House Floor: **HR 72, 76, 77, 79, 80, 81, 95**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 251, 8, 25, 57, 94, 102, 112, 134, 191, 225, 240**

Health and Welfare: **HB 194, 270, HJR 16, HCR 17**

Report of Committees

The Committee on State Government reported **HB 5, HB 43, HB 54, HB 78, HB 157,** and **HB 181** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to recommendations for capital construction programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each even-numbered-year regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

- (a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and
- (b) For each project:
  1. The agency and purpose for which it will be used;
  2. The justification for the project;
  3. Its estimated completion date;
  4. The total estimated cost of completing the project;
  5. The estimated cost of the project during the biennium;
  6. The recommended sources of funds for the entire project; and
  7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

  If the recommendation includes a project that is to be constructed over multiple bienniums, the recommendation shall clearly describe the work and associated costs for each biennium. The recommendation shall specify that if future amounts for the project are not provided the amount recommended for the current biennium is sufficient to complete an independently functional project, and shall describe how that project addresses needs of the user agency.

(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:

- (a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;
- (b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;
- (c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;
- (d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;
- (e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and
- (f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;

2. The justification for the purchase;

3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or
2. Required by an unforeseen decision by a federal or state court or regulatory agency; and
3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and
4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.

(16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;
2. The project account number, project name, and any other term employed to identify the project or major item of equipment;
3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;
4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;
5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;
6. Total expenditure on the project or major item of equipment;
7. The current estimated completion cost, including the amount required for annual inflation; and
8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

(17) When the General Assembly authorizes a capital construction item in the capital construction section of a branch budget bill, the entity head charged with executing the branch budget shall construct the capital construction item according to the requirements set forth in the branch budget bill, statutory budget memorandum, supporting documentation considered by the General Assembly, and branch budget records. The entity head shall not deviate from these requirements with regard to:

(a) Purpose or location to the extent that the capital construction item no longer meets the identified needs; or

(b) Configuration for reasons other than practical accommodation to the construction site or specific program to be accommodated within that capital construction item.

HB 43, AN ACT relating to information technology systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.760 to 45.810:

(a) "Committee" means the Capital Projects and Bond Oversight Committee.

(b) "Capital construction item" means:

1. The construction, reconstruction, acquisition, and structural maintenance of buildings;

2. The installation of utility services, including roads and sewers;

3. The acquisition or improvement of real property;

4. The purchase and installation initially or during major renovation of equipment, facilities, and furnishings of a permanent nature for buildings;

5. The acquisition of any building to be occupied by any:

a. Subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020;

b. Municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis; and

c. Institution of higher education.

(c) "Lease" means any lease, lease-purchase, or lease with an option to purchase of any real property space occupied by:

1. Any entity listed in paragraph (b)5. of this subsection;

2. The legislative branch; or

3. The judicial branch when leased from a private sector landlord.

(d) "Equipment" means:

1. Any major item of equipment, including aircraft;

2. Any movable furnishing, appurtenance, or other equipment, necessary to make a building operable; and

3. Equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "***Information technology*** system" means any ***related*** computer or telecommunications ***components that provide a functional system for a specific business purpose and contain one (1) or more of the following:***

1. Hardware;

2. Software, including application software, systems management software, utility software, or communications software;

3. Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or

4. Digital data products, including acquisition and quality control~~[system, as defined in an administrative regulation which shall be promulgated by the Governor's Office for Technology]~~.

(f) "Capital projects" means, regardless of the source of cash or other consideration:

1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost four hundred thousand dollars ($400,000) or more in cash or other consideration;

2. Any lease of real property space with an annual rental cost exceeding two hundred thousand dollars ($200,000);

3. The use allowance paid by the judicial branch for a real property space pursuant to KRS 26A.090(2) and 26A.115 when the use allowance for the space exceeds two hundred thousand dollars ($200,000) on an annual basis;

4. Any item of equipment estimated to cost one hundred thousand dollars ($100,000) or more in cash or other consideration;

5. Any lease of an item of movable equipment if the annual cost of the lease is one hundred thousand dollars ($100,000) or more or if the total cost of the lease-purchase or lease with an option to purchase is one hundred thousand dollars ($100,000) or more; and

6. Any ***new acquisition, upgrade, or replacement of an information technology*** system estimated to cost four hundred thousand dollars ($400,000) or more in cash or other consideration.

(g) "Emergency repair, maintenance, or replacement project" means the maintenance, repair, or reconstruction of a capital construction project or the maintenance, repair, or replacement of a major item of equipment that is:

1. Necessitated by injury or damage resulting from a disaster;[~~ or~~]

2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or

3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(h) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(i) "Capital construction funds" means any funds used for capital construction, including, but not limited to, appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source held by an agency for management or investment purposes.

(j) "Entity head" means the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives, the secretary of the Finance and Administration Cabinet, the president of any university which complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees of the Kentucky Employees Retirement System, the board of trustees of the Teachers' Retirement System of the State of Kentucky, the board of directors of the Kentucky Higher Education Student Loan Corporation, the board of directors of the Kentucky Lottery Corporation, or the board of directors of the Kentucky Housing Corporation.

(2) Except as provided in subsection (3) of this section, KRS 45.760 to 45.810 shall apply to capital projects and bonds for use by:

(a) The state government;

(b) One of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020;

(c) A municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation; and

(d) Institutions of higher education.

(3) KRS 45.760 to 45.810 shall not apply to:

(a) Capital projects or bonds used directly in or for the construction or maintenance of roads, including, but not limited to, bulldozers, graders, earth movers, and real estate purchased for rights-of-way; and

(b) Political subdivisions, except for those defined in KRS 12.010, enumerated in KRS 12.020, or created as a municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis. However, the provisions of KRS 45.750 to 45.810 shall not apply to acquisition or maintenance of any building or land which is purchased as a legal investment by any of the state retirement systems, which is not to be occupied by the retirement system, and which is financed solely with those assets of the retirement system used for investment purposes.

Section 2. KRS 7A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Capital project" means:

(a) Any undertaking which is to be financed or funded through an appropriation by the General Assembly of general fund, road fund, bond fund, trust and agency fund, or federal fund moneys, where the expenditure is a capital expenditure pursuant to statute or under standards prescribed by the Legislative Research Commission under the authority of KRS Chapter 48;[~~ or~~]

(b) Any undertaking which is to be financed by a capital expenditure for use by the state government or one of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020, including projects related to the construction or maintenance of roads, and including projects of institutions of higher education as defined in KRS 164A.550(2);[~~ or~~]

(c) Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost four hundred thousand dollars ($400,000) or more, or any item of movable equipment, estimated to cost one hundred thousand dollars ($100,000) or more, regardless of the source of funds;~~[or]~~

(d) Any lease of real property whose value is two hundred thousand dollars ($200,000) or more;~~[or]~~

(e) Any lease of an item of movable equipment if the total cost of the lease, lease-purchase, or lease with an option to purchase is one hundred thousand dollars ($100,000) or more*; or*

(f) Any new acquisition, upgrade, or replacement of an information technology system estimated to cost four hundred thousand dollars ($400,000) or more.

(2) "Board" means the Capital Planning Advisory Board of the Kentucky General Assembly created by KRS 7A.110.

(3) "Plan" means the state capital improvement plan provided for by KRS 7A.120.

(4) "State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government.

(5) "Information technology system" means any related computer or telecommunications components that provide a functional system for a specific business purpose and contain one (1) or more of the following:

(a) Hardware;

(b) Software, including application software, systems management software, utility software, or communications software;

(c) Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or

(d) Digital data products, including acquisition and quality control.

HB 54, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 2002-759, dated July 1, 2002, which transfers ownership responsibility and building management for facilities in Ashland, Jackson, Louisville, Owensboro and Richmond from the Cabinet for Families and Children to the Department for Facilities Management in the Finance and Administration Cabinet, including personnel and equipment associated with those facilities.

HB 78, AN ACT relating to sponsorship of bills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

If a bill passes the Senate or the House of Representatives, and a substantially similar bill is pending in the other chamber, the primary sponsors of each of the bills may jointly petition the Committee on Committees in each chamber to authorize co-sponsorship by members of both chambers. With the written approval of both the Committee on Committees in the Senate and the Committee on Committees in the House of Representatives, members from both chambers may be listed as sponsors of the bill which first passed its chamber of origin as follows:

(1) The primary Senate sponsor shall be listed as first sponsor of the bill if it is a Senate bill and the primary House sponsor shall be listed as the first sponsor of the bill if it is a House bill. The primary sponsor from the other chamber shall be listed immediately after the first sponsor on the bill; and

(2) Co-sponsors from both chambers may be listed after the two (2) primary sponsors, with Senate co-sponsors listed first on Senate bills, and House of Representatives co-sponsors listed first on House bills. Co-sponsors from the other chamber shall be listed immediately after the co-sponsors in the chamber of origin.

HB 157, AN ACT relating to financial administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any payment method authorized by law, and notwithstanding any statute to the contrary, any state agency may accept the following methods of payment to secure funds for deposit into the State Treasury:

(a) Credit card;

(b) Debit card;

(c) Electronic check;

(d) Automated clearinghouse (ACH) debit; or

(e) Any other electronic payment method upon the prior written approval of both the Finance and Administration Cabinet and the Office of the State Treasurer.

(2) Any fees charged to a state agency by the provider of the payment services listed in subsection (1) of this section shall be deemed to represent collection expenses and shall be considered normal operating expenses of the agency.

HB 181, AN ACT relating to the establishment of Organ Donor Awareness Week.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The fourth week of April of each year is designated as Organ Donor Awareness Week, and the Governor shall annually issue a proclamation inviting and urging the people of the Commonwealth to be involved with appropriate activities. This observance is created to educate the citizens of the Commonwealth about the importance of organ donation.

(2) As part of Organ Donor Awareness Week, the Governor and the House of Representatives and the Senate of the General Assembly shall honor those persons who have donated organs and surviving family members with a ceremony in the Capitol rotunda. Each person who has donated an organ shall be recognized collectively by citation and, upon request, the person or the person's family shall be given a copy of the citation. The Governor may establish an organ donor honor board to collect the name of each person, subject to the person's consent, who donates an organ in the Commonwealth during the year, and to recognize medical professionals, educators, volunteers, public employees, and private organizations that are involved with the organ donation process. Nothing in this section shall be construed to require reporting of the name of any person involved with the organ donation process or to supercede patient confidentiality protections established by statute, the Board of Medical Licensure or other state entity, or the Federal Health Insurance Portability and Accountability Act.

(3) Education efforts are encouraged to focus on the importance of organ donation and its significance with saving the lives of Kentuckians. The Cabinet for Health Services is encouraged to develop and circulate materials relating to organ donation.

The Committee on Tourism Development and Energy reported **HB 28** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 28, AN ACT relating to tourism development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.855 is amended to read as follows:

(1) The secretary of the Tourism Development Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Development Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism Development Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Development Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000) and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Development Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the Tourism Development Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Development Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism Development Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) ***The independent consulting firm shall consult with the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of a report on the proposed tourism attraction project. The Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.***

(6) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(7)[~~(6)~~] After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Development Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 2. KRS 148.859 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company***. Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004***;

(b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;[~~ and~~]

(c) The following provisions:

1. The term shall be ten (10) years from the later of:

a. The date of the final approval of the project; or

b. The ***original*** completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project***. An extension of the original completion date shall not alter the commencement date of the term***;

2. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section; and

3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:

a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth; or

b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days***; and***

(d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b)

of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:

1. *The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;*
2. *The term of the agreement shall not be extended; and*
3. *The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options*.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

The Committee on Education reported **HB 40**, with Committee Substitute attached thereto, **HB 49, HB 88, HB 140**, with Committee Substitute attached thereto, **HB 223, HCR 15**, with Committee Substitute attached thereto, **HCR 20, HCR 32, HCR 33, HCR 34, HCR 35, HCR 36, HCR 37, HCR 39, HCR 40, HCR 41**, with Committee Substitute attached thereto, **HCR 42, HCR 43**, and **HCR 44** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 40, AN ACT relating to student financial aid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.753 is amended to read as follows:

(1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority, there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships, the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education[~~ and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education~~];

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education[~~ and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma, or degree in theology, divinity, or religious education~~];

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 2. KRS 164.769 is amended to read as follows:

(1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.

(2) For purposes of this section, the terms listed below shall have the following meanings:

(a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable including, but not limited to, local education agencies to identify the critical shortage areas.

(b) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification[~~, but does not lead to a certificate, diploma, or degree in theology, divinity, or religious education~~].

(c) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv.

(d) "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.

(e) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), except that an individual having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), whose disability, certified by a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician.

(f) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year.

(g) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.

(3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received teacher scholarships pursuant to this section prior to July 1, 1996. Each teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.

(4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution or who received teacher scholarships pursuant to this section prior to July 1, 1996. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to

any otherwise eligible students seeking admission to a teacher education program.

(5) The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each semester and summer term under this section, and shall prorate the amount awarded to any student enrolled less than full-time in accordance with paragraph (6)(a) of this section. The aggregate amount of scholarships awarded to an individual shall not exceed twelve thousand five hundred dollars ($12,500) for undergraduate students and seven thousand five hundred dollars ($7,500) for postbaccalaureate students, except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars ($20,000), and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.

(6) (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study on a full-time basis, except that disbursements may be made to otherwise eligible students enrolled less than full-time in the semester or summer term in which the eligible program of study will be completed or otherwise eligible students having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), who have been certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability. Teacher scholarships shall be disbursed to eligible students who received teacher scholarships pursuant to this section for recertification in a critical shortage area prior to July 1, 1996, who are enrolled in and continuing toward completion of their program of study, and who agree to render qualified teaching service as certified teachers.

(b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.

(d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.

(e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.

(f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.

(g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.

(9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.

(10) The authority may execute appropriate contracts and promissory notes for administering this section.

(11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified

applicants until funds are depleted.

Section 3. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent college or university which is accredited by the Southern Association of Colleges and Schools[~~ and whose institutional programs are not comprised solely of a sectarian instruction~~]. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph; ***and***

(c)[~~ Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and~~

~~(d)~~] Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 4. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;

(7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(8) "Eligible high school student" means any person who:

(a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

(b) Was enrolled after July 1, 1998:

1. In a Kentucky high school, at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;

2. In a Kentucky high school for the fall academic term of the senior year and who:

a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year;

3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

(c) Is not a convicted felon;

(9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

(b) Has the required postsecondary G.P.A. required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(13) "KEES" means Kentucky educational excellence scholarship;

(14) "KEES curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study~~[not comprised solely of sectarian instruction]~~, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

(19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 5. KRS 164A.240 is amended to read as follows:

(1) As used in this section, the term "eligible borrower" shall mean a student, and the parent of a dependent student, who demonstrates an intention and capacity to repay the loan. The student shall be a Kentucky resident enrolled or accepted for enrollment, on at least a half-time basis, at an eligible institution, making satisfactory progress toward completion of a program leading to a certificate, degree or diploma~~[other than theology, divinity, or religious education]~~.

(2) In addition to the authority granted by KRS 164A.010 to 164A.230, the corporation is authorized to establish, finance and operate such educational loan programs as the Higher Education Assistance Authority shall deem necessary in order to make available additional educational loans, which shall not be insured student loans as that term is defined by KRS 164A.020 to meet the financial needs of eligible borrowers. The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders and eligible institutions. The educational loan programs may provide for either the making of educational loans directly to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.

(3) The corporation may promulgate necessary rules and regulations as shall be required to administer any such program on a financially sound basis, including the requiring of guarantees, cosigning by parents or guardians, nongovernmental loan insurance if available, collateral pledges and other security provisions deemed requisite in the circumstances.

(4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the

provisions set forth in KRS 164A.010 to 164A.230, provided that the proceeds of the bonds may be used for the educational loan programs and shall not be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(5) No bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education. In making the determination of need the Governor and Legislative Research Commission shall consider the availability of other student assistance resources.

(6) The maximum annual loan amount shall not exceed the costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution, or a lesser amount established by the board. The loan proceeds shall be used by the eligible borrower solely for those costs of attendance.

(7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.

(8) The Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.

The Committee Substitute to **HB 40** is as follows:

HB 40, AN ACT relating to student financial aid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.753 is amended to read as follows:

(1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority, there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act.

(3) In the instance of scholarships, the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education[~~ and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education~~];

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education[~~ and are not planning to enroll or are not enrolled in a program of study leading to a~~

~~certificate, diploma, or degree in theology, divinity, or religious education~~];

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 2. KRS 164.769 is amended to read as follows:

(1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.

(2) For purposes of this section, the terms listed below shall have the following meanings:

(a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable including, but not limited to, local education agencies to identify the critical shortage areas.

(b) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification[~~, but does not lead to a certificate, diploma, or degree in theology, divinity, or religious education~~].

(c) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv.

(d) "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.

(e) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), except that an individual having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), whose disability, certified by a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician.

(f) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year.

(g) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.

(3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received teacher scholarships pursuant to this section prior to July 1, 1996. Each teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.

(4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution or who received teacher scholarships pursuant to this section prior to July 1, 1996. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to any otherwise eligible students seeking admission to a teacher education program.

(5) The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each

semester and summer term under this section, and shall prorate the amount awarded to any student enrolled less than full-time in accordance with paragraph (6)(a) of this section. The aggregate amount of scholarships awarded to an individual shall not exceed twelve thousand five hundred dollars ($12,500) for undergraduate students and seven thousand five hundred dollars ($7,500) for postbaccalaureate students, except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars ($20,000), and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.

(6) (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study on a full-time basis, except that disbursements may be made to otherwise eligible students enrolled less than full-time in the semester or summer term in which the eligible program of study will be completed or otherwise eligible students having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), who have been certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability. Teacher scholarships shall be disbursed to eligible students who received teacher scholarships pursuant to this section for recertification in a critical shortage area prior to July 1, 1996, who are enrolled in and continuing toward completion of their program of study, and who agree to render qualified teaching service as certified teachers.

(b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.

(d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.

(e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.

(f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.

(g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.

(9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.

(10) The authority may execute appropriate contracts and promissory notes for administering this section.

(11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified applicants until funds are depleted.

Section 3. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent college or university which is accredited by the Southern Association of Colleges and Schools and whose institutional programs are not comprised solely of a sectarian instruction. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph; *and*

(c)[~~Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and~~

~~(d)~~] Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 4. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;

(7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(8) "Eligible high school student" means any person who:

(a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

(b) Was enrolled after July 1, 1998:

1. In a Kentucky high school, at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;

2. In a Kentucky high school for the fall academic term of the senior year and who:

a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year;

3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

(c) Is not a convicted felon;

(9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

(b) Has the required postsecondary G.P.A. required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(13) "KEES" means Kentucky educational excellence scholarship;

(14) "KEES curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;

(15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;

(19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 5. KRS 164A.240 is amended to read as follows:

(1) As used in this section, the term "eligible borrower" shall mean a student, and the parent of a dependent student, who demonstrates an intention and capacity to repay the loan. The student shall be a Kentucky resident enrolled or accepted for enrollment, on at least a half-time basis, at an eligible institution, making satisfactory progress toward completion of a program leading to a certificate, degree or diploma~~[other than theology, divinity, or religious education]~~.

(2) In addition to the authority granted by KRS 164A.010 to 164A.230, the corporation is authorized to establish, finance and operate such educational loan programs as the Higher Education Assistance Authority shall deem necessary in order to make available additional educational loans, which shall not be insured student loans as that term is defined by KRS 164A.020 to meet the financial needs of eligible borrowers. The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders and eligible institutions. The educational loan programs may provide for either the making of educational loans directly to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.

(3) The corporation may promulgate necessary rules and regulations as shall be required to administer any such program on a financially sound basis, including the requiring of guarantees, cosigning by parents or guardians, nongovernmental loan insurance if available, collateral pledges and other security provisions deemed requisite in the circumstances.

(4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.230, provided that the proceeds of the bonds may be used for the educational loan programs and shall not be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and

limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(5) No bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education. In making the determination of need the Governor and Legislative Research Commission shall consider the availability of other student assistance resources.

(6) The maximum annual loan amount shall not exceed the costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution, or a lesser amount established by the board. The loan proceeds shall be used by the eligible borrower solely for those costs of attendance.

(7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.

(8) The Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.

HB 49, AN ACT relating to college preparatory educational programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

(1) "Advanced placement" means a college-level course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.

(2)[~~"Board" means the Kentucky Board of Education.~~

~~(3)~~] "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.

(3)[~~(4)~~] "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.

(4)[~~(5) "Department" means the Kentucky Department of Education.~~

~~(6)~~] "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.

(5)[~~(7)~~] "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.

[~~(8) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.~~

~~(9) "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.~~

~~(10) "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.~~]

HB 88, AN ACT relating to smoking prohibitions at postsecondary education institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 164.948 TO 164.9490 IS CREATED TO READ AS FOLLOWS:

Each postsecondary education institution shall prohibit smoking in all residence halls, dormitory facilities, and other campus-owned and sanctioned housing including but not limited to lounges, hallways, stairwells, elevators, restrooms, laundry rooms, and shared and private rooms. Signs shall be displayed in prominent locations throughout the building declaring the facility a smoke-free environment.

HB 140, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of ***nineteen (19)***[~~eleven (11)~~] members ***as follows:***[~~,~~]

(a) Eight (8)[~~ of whom shall be~~] chosen from the general public residing in the Commonwealth of Kentucky***;*** [~~and~~]

(b) [~~three (3) of whom shall be~~]The ***president***[~~chairman~~] of the Council on Postsecondary Education***;***[~~,~~]

(c) The secretary of the Finance and Administration Cabinet***;***

(d) The Kentucky State Treasurer;

(e) The president of the Association of Independent Kentucky Colleges and Universities; and

(f) The ***seven (7) members***[~~chairman~~] of the Kentucky Higher Education Assistance Authority ***board of directors appointed under KRS 164.746(1). These seven (7) members shall serve on the corporation board coextensively with their terms as members of the board of directors of the Kentucky Higher Education Assistance Authority.***

All of the nineteen (19) members of the board of directors of the corporation shall be voting members.

(4) The Governor shall appoint the eight (8) directors ***established in paragraph (a) of subsection (3) of this section*** from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each ***of these eight (8) directors***[~~director~~] shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) ***(a)*** In the event of a vacancy ***in the eight (8) directors established in paragraph (a) of subsection (3) of this section***, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.

(b) In the event of a vacancy in the seven (7) directors established in paragraph (f) of subsection (3) of this section, the Governor shall appoint a replacement to the Kentucky Higher Education Assistance Authority as required under KRS 164.746(2). The replacement individual shall then serve on the board of directors of the Kentucky Higher Education Student Loan Corporation for a term coextensive with his or her respective term of office on the board of directors of the Kentucky Higher Education Assistance Authority.

(6) The Governor may remove any ***public*** director[~~ from the general public~~] ***established in paragraph (a) of subsection (3) of this section*** in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare ***the***[~~such~~] office vacant and may appoint a person to fill ***the***[~~such~~] vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary, and treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(11) Directors, except officers or employees of the state, shall receive one hundred dollars ($100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in

respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 2. The General Assembly hereby confirms the Governor's Executive Order 2002-848, dated July 18, 2002, relating to the addition of members to the Board of Directors of the Kentucky Higher Education Student Loan Corporation, to the extent it is not otherwise confirmed by this Act.

The Committee Substitute to **140** is as follows:

HB 140, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to ***164.7891***[~~164.785~~], the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the ***Accrediting Commission for Independent Colleges and Schools***[~~Association of Independent Colleges and Schools, the commission for business schools,~~] or any successor ***recognized by the United States Department of Education***, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means ***an institution governed by the board of regents of the Kentucky Community and Technical College system or*** any postsecondary educational institution of higher learning which is accredited by ***a***[~~the Southern Association of Colleges and Schools, the commission on colleges, or any successor, or other equivalent~~] regional accrediting association ***recognized by the United States Department of Education***, and which provides a program of study leading to the granting of a postsecondary degree***,***[~~ or~~] diploma***, or certificate***.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-419, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Pub. L. 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) ***"Regional accrediting association" means the Middle States Association of Colleges and Schools, Commission on Higher Education; New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, Higher Learning Commission; Northwest Association of Schools and Colleges, Commission on Colleges; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.***

(20) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(21)[~~(20)~~] "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(22)[~~(21)~~] "Secretary" means the United States Secretary of Education.

(23)[~~(22)~~] "Vocational school" means[~~ any public vocational school, technical institution, or technology center which is managed and controlled by the board of regents for the Kentucky Community and Technical System and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or~~] a vocational technical school accredited by the ***Accrediting Commission for Career Schools and Colleges of Technology or the National Council for Workforce Education, or any successor recognized by the United States Department of Education***[~~national association of trade and technical schools, or any successor~~], which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(24)[~~(23)~~] "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 2. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

  (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;

  (b) Has been accepted by or is enrolled as a full time student in a Kentucky independent college or university which is accredited by ***a regional accrediting association recognized by the United States Department of Education***[~~the Southern Association of Colleges and Schools~~] and whose institutional programs are not ***composed***[~~comprised~~] solely of a sectarian instruction. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph;

  (c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

  (d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 3. KRS 164.753 is amended to read as follows:

(1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:

  (a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

  (b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

  (c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution[~~, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee~~

~~fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority, there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act]~~.

(3) In the instance of scholarships, ***except scholarships provided pursuant to KRS 164.518,*** the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma, or degree in theology, divinity, or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 4. KRS 164.7891 is amended to read as follows:

(1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.

(2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.

(3) The authority may award scholarships to students who meet the following criteria:

(a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;

(b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy Association or its successor, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

(c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and

(d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.

(4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between:

(a) The average of the prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine; and

(b) The prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.

(5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the ***sum of all outstanding promissory notes and accrued interest***[~~amount of the scholarship awarded~~].

(6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.

(9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures ***or the terms of promissory notes*** for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, ***the rate of*** repayment ***and deferment of repayment*** of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.

(10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.

(b) Funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.

(c) The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

(d) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.

(12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.

(13) The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars ($19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.

Section 5. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

(1) The trust shall exercise ownership of all contributions made under any participation agreement and all interest derived from the investment of the contributions made by the participant up to the date of utilization for payment of higher education costs for the beneficiary. All contributions made under any participant agreement and interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;

(2) Any participant may cancel a participation agreement at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee. In the event the participation agreement is terminated in part, the trust shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and not returned to the participant. The participant shall retain a reversionary right to receive upon termination the actual market value of the participant's account at the time of the cancellation, including interest, except that the participant ***may***[~~shall~~] be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;

(3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth postsecondary education prepaid tuition trust fund established in KRS 164A.701, and in compliance with administrative regulations promulgated by the board for the savings plan trust***;***[~~.~~]

(4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant ***may***[~~ shall~~] be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;

(5) The institution of higher education shall obtain ownership of the distributions made from the participant's account for the higher education costs paid to the institution at the time each payment is made to the institution;

(6) Any amounts received by the trust pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section shall be owned by the trust;

(7) A participant may transfer the participant's rights to another eligible participant, including, but not limited to, a gift of the participant's rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be ***effected***[~~affected~~] and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;

(8) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:

(a) The death, permanent disability, or mental incapacity of the beneficiary; or

(b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26 U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and

(9) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 6. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305***(6)***[~~(7)~~] or refunded under KRS 164A.350***(8)***[~~(7)~~](a) or [~~164A.350(7)~~](b) shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(7) and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350***(8)***[~~(7)~~](a) ***or*** [~~and 164A.350(7)~~](b).

Section 7. KRS 164.748 is amended to read as follows:

The board shall have the following powers, functions, and duties:

(1) To provide loan guarantees, upon terms and conditions the board may prescribe within the limitations provided by KRS 164.740 to 164.770, and the federal act in respect of loans to eligible borrowers. The board may require additional security, including endorsers it deems necessary and desirable and is not in contravention of the federal act. The purpose of the loans shall be to assist individuals in meeting the expense of their education.

(2) To enter into agreements and undertakings with the secretary as may be required and necessary pursuant to the federal act in order to constitute the authority as a state agency qualified and empowered to insure student loans within the meaning of the federal act and to qualify insured student loans for interest payments, reimbursement, reinsurance, and other benefits available under the federal act to the authority.

(3) To issue loan guarantees in respect of loans made to eligible borrowers by participating lenders, including the authority. No eligible borrower shall obtain an insured student loan from more than one (1) participating lender without prior approval by the board. No loan guarantee shall be issued, executed, and delivered by the authority unless any insured student loan resulting shall be the subject of agreements pursuant to the federal act by which the insured student loan is made the subject of interest payments, reimbursements, reinsurance, and other benefits to the extent provided by the federal act.

(4) To promulgate administrative regulations pursuant to KRS Chapter 13A pertaining to insured student loans, loan guarantees, loans, and work-study payments and the awarding of grants, scholarships, and honorary scholarships, as provided in KRS 164.740 to 164.785.

(5) To enter into contracts with eligible lenders, approved by the state to lend moneys, upon terms and conditions agreed upon between the authority and the eligible lender, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.

(6) To enter into contracts with eligible institutions, upon terms and conditions agreed upon between the authority and the eligible institution, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.

(7) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to expend them, on behalf of the authority and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, absolutely or in trust, and to hold, administer, and dispose of it, on behalf of the authority and for any of its purposes. The authority shall not make its debts payable out of any funds except those of the authority.

(8) To administer federal funds allotted to the state in respect of insured student loans, loan guarantees, loans, work-study, grants, administrative costs, and related matters.

(9) To sue and be sued in the name of the authority and to plead and be impleaded, and to purchase, on behalf of members of the board or officers and employees of the authority, liability insurance for individual protection from liability for acts and omissions committed in the course and scope of the individual's employment or service.

(10) To collect from individual borrowers loans made by the authority and insured student loans on which the authority has been compelled to meet its loan guarantee obligations following the inability of the participating lender involved to collect the insured student loans.

(11) To gather information on all loans, scholarships, honorary scholarships, grants, and work-study opportunities available to Kentucky residents attending or planning to attend an eligible institution and to disseminate the information through the methods of mass communication necessary to ensure that Kentucky residents are aware of financial resources available to those attending or desiring to attend an eligible institution.

(12) To request reports from each eligible institution or eligible lender necessary for the effective performance of its duties and to publish the information it deems necessary.

(13) To approve, disapprove, limit, suspend, or terminate the participation of, or take emergency action to withhold authority funds and insured student loans from eligible institutions or eligible lenders in programs administered by the board, subject to the provisions of the federal act and this chapter.

(14) To perform other acts necessary or appropriate to carry out effectively the purposes of the authority as provided by KRS 164.740 to ***164.7891***[~~164.785~~] and KRS 164A.010 to 164A.380.

(15) If any conflict exists between KRS 164.740 to 164.770 and the federal act, which conflict would result in a loss by the authority of any federal funds, including, but not by way of limitation, federal funds made available to the authority under the federal act, including interest payments and reimbursement for insured student loans in default, to promulgate regulations and policies consistent with the federal act not in derogation of the Constitution and general laws of the Commonwealth.

(16) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source ***in furtherance of any***[~~for~~] purposes of ***the authority related to***[~~verifying information submitted by any student and any student's parents, or others in loco parentis, in applying for or receiving assistance from~~] any program ***or function*** administered by the authority.

(17) To enter into contracts with public or private nonprofit agencies, eligible to hold or insure student loans under the federal act, to provide for the exchange of information, not in contravention of any federal or state law, or the provision of services

necessary to the administration of the authority's insured student loan programs.

(18) To enter into contracts with the Kentucky Higher Education Student Loan Corporation as required pursuant to KRS Chapter 164A.

(19) To conduct, in accordance with KRS Chapter 13B, administrative hearings pertaining to any adverse action by the authority affecting participating institutions and lenders, eligible students, and borrowers of loans made by the authority and insured student loans guaranteed by the authority. Wage garnishment hearings and administrative review procedures pertaining to disputes concerning setoff of federal tax refunds shall be exempt under KRS 13B.020 and shall be conducted in accordance with applicable federal law. In an exempt hearing, the board or a hearing officer designated by the board may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to the issues in dispute. Compliance with the subpoenas shall be enforceable by a court of competent jurisdiction.

(20) To provide upon termination of the retirement plan authorized by Executive Order 75-964 to active and retired employees of the authority who participated in that plan, health insurance premiums and disability insurance benefits as provided to employees who participate in a state-administered retirement system pursuant to KRS 18A.225 to 18A.229, 61.600, and 61.702.

(21) To delegate to the executive director general supervision and direction over the administrative function of the authority and its employees in carrying out the policies, programs, administrative regulations, and directives of the board.

Section 8. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;

(7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(8) "Eligible high school student" means any person who:

- (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
- (b) Was enrolled after July 1, 1998:
  - 1. In a Kentucky high school ***for***~~[,]~~ at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; ***or***
  - 2. In a Kentucky high school for the fall academic term of the senior year and who:
    - a. Was enrolled during the entire academic term;
    - b. Completed the high school's graduation requirements during the fall academic term; and
    - c. Was not enrolled in a secondary school during any other academic term of that academic year; ***and***
  - 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
- (c) Is not a convicted felon;

(9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

- (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
- (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
- (c) Has remaining semesters of eligibility under KRS 164.7881;
- (d) Is enrolled in a participating institution as a part-time or full-time student; and
- (e) Is not a convicted felon;

(10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(13) "KEES" means Kentucky educational excellence scholarship;

(14) "KEES curriculum" means five (5) courses of study*, except for students who meet the criteria of subsection (8)(b)2. of this section,* in an academic year as determined *in accordance with an*[~~by~~] administrative regulation promulgated by the council;

(15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs[~~ and provides annual documentation to the authority of compliance~~];

(19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 9. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors.

(a) Subject to paragraph (b) of this subsection, voting members of the board shall consist of*:*

1. Seven (7)[~~ voting~~] members who shall be appointed *from the general public residing in the Commonwealth of Kentucky* by the Governor *from nominees submitted by the Governor's Postsecondary Education Nominating Committee under KRS 164.005; and*

2. Eight (8) members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to subsection (3)(a)1. of Section 10 of this Act, who shall serve terms of office on the authority board of directors coextensive with their respective terms of office on the Kentucky Higher Education Student Loan Corporation board of directors.

(b) Upon resignation or expiration of the term of an appointed member of the board of the authority or the Kentucky Higher Education Student Loan Corporation, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the authority and the Kentucky Higher Education Student Loan Corporation to ten (10) members.

(c) In addition, the president of the Council on Postsecondary Education, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, *the commissioner of education,* and the secretary of the[~~ Cabinet of~~] Finance and Administration *Cabinet, or their designees who shall be another official of the same cabinet or agency,* shall serve as voting ex officio members.

(d) The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and*, except as provided in paragraph (b) of this subsection, shall serve* until his successor is appointed.

(2) *Subject to paragraph (b) of subsection (1) of this section,* appointments to fill vacancies on the board shall be made in the

same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a ***chair, chair-elect, and secretary-treasurer***[~~chairman and chairman-elect~~] who shall each serve for a term of one (1) year. At the conclusion of the ***chair's***[~~chairman's~~] term of office, the ***chair-elect***[~~chairman-elect~~] shall become ***the chair***[~~chairman~~] for the succeeding year and the board shall elect from its voting membership a new ***chair-elect***[~~chairman-elect~~].

(4) Board members, except officers or employees of the state, shall receive compensation for their services, in the amount of one hundred dollars ($100) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the ***chair***[~~chairman~~] in accordance with KRS 61.823, and either the ***chair or the chair-elect***[~~chairman or the chairman-elect~~] shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

(8) The Office of the Treasurer and the board of the Kentucky Higher Education Assistance Authority shall work together to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.

Section 10. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) ***(a) Subject to paragraph (b) of this subsection,*** the corporation shall be governed by a board of directors consisting of***:***[~~eleven (11) members,~~]

1. Eight (8) ***voting members***[~~of whom shall be~~] chosen from the general public residing in the Commonwealth of Kentucky***; and***

2. Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to subsection (1)(a)1. of Section 9 of this Act, who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors.

(b) Upon resignation or expiration of the term of an appointed member of the board of the corporation and the Kentucky Higher Education Assistance Authority, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members.

(c) In addition, the president[~~and three (3) of whom shall be the chairman~~] of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, ***the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members***[~~and the chairman of the Kentucky Higher Education Assistance Authority~~].

(4) The Governor shall appoint[~~the eight (8)~~] directors ***according to subsection (3)(a)1. of this section*** from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director

shall serve for the appointed term and***, except as provided in subsection (3)(b) of this section, shall serve*** until a successor has been appointed and has duly qualified.

(5) ***Except as provided in subsection (3)(b) of this section,*** in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a ***chair, chair-elect, and secretary-treasurer***[~~chairman, secretary, and treasurer~~]. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The ***secretary-treasurer***[~~secretary~~] of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The ***secretary-treasurer***[~~secretary~~] may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the ***chair***[~~chairman~~] upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(11) Directors, except officers or employees of the state, shall receive one hundred dollars ($100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 11. The General Assembly confirms Executive Order 2002-849, dated July 18, 2002, and Executive order 2002-848, dated July 18, 2002, which relate to expansion of the Kentucky Higher Education Assistance Authority's board of directors and the Kentucky Higher Education Student Loan Corporation's board of directors, respectively, to the extent the orders are not otherwise confirmed or superseded by this Act. On making appointments to the boards of directors of the Kentucky Higher Education Assistance Authority and the Kentucky Higher Education Student Loan Corporation, the Governor shall, to the extent reasonably possible, ensure that the appointee shall have experience in the fields of education, business, or financial matters that would be relevant to the functions of the organizations; and that appointments reflect the racial, gender, political, and geographical diversity and composition of the Commonwealth.

Section 12. The following KRS section is repealed:

164.7893 Requirements for educational institutions for students to receive student financial assistance.

HB 223, AN ACT relating to the Kentucky Community and Technical College System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's Postsecondary Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's Postsecondary Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall

have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his ***or her*** tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect, inasmuch as possible, equal representation of the two (2) sexes and no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the committee, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on Postsecondary Education Student Advisory Committee;
3. Associations representing faculty from universities, technical institutions, and community colleges;
4. Associations representing university, technical institutions, and community college alumni;
5. Postsecondary education advocacy groups;
6. The Kentucky Board of Education;
7. Associations representing business and civic interests; and
8. Associations representing independent, nonprofit colleges and universities.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university ***or Kentucky Community and Technical College System*** governing board made pursuant to KRS 164.131, 164.321, and 164.821 and to the Council on Postsecondary Education pursuant to KRS 164.011~~[, except for the four (4) members of the Kentucky Community and Technical College System who shall be nominated by the board of trustees of the University of Kentucky under KRS 164.321]~~. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131 and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Postsecondary Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The committee shall provide to the Governor, inasmuch as possible, an equal number of male and female nominees. If the Governor needs nominees of a particular sex in order to make an appointment, the committee shall only provide nominees of that sex. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 2. KRS 164.321 is amended to read as follows:

(1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, Northern Kentucky University, and the Kentucky Community and Technical College System shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

(a) Each board of the regional universities shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

(b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body.

1.[~~Four (4) members shall be appointed by the Governor from three (3) nominations for each of four (4) appointments, recommended by the board of trustees of the University of Kentucky. The Governor may request additional nominations at his discretion.~~

~~2. Four (4) members shall be appointed by the Governor from nominations by the Governor's Postsecondary Nominating Committee, under KRS 164.005.~~

~~3.~~] No more than three (3) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment.

2.[~~4.~~] A change in residency of a gubernatorial appointee after the date of appointment shall not affect the appointee's ability to serve. In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.

(2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments to the board of regents for the Kentucky Community and Technical College System shall be as follows:

(a) One (1) member shall serve a one (1) year term;

(b) One (1) member shall serve a two (2) year term;

(c) Two (2) members shall serve three (3) year terms;

(d) One (1) member shall serve a four (4) year term;

(e) One (1) member shall serve a five (5) year term; and

(f) Two (2) members shall serve six (6) year terms.

New appointees of a board of regents shall not serve for more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.

(3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office. A change in residency after the date of appointment shall not affect a member's ability to serve nor shall it prevent a member's eligibility for reappointment.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each member of the board shall serve for the term for which ***the member***[~~he~~] is appointed and until ***a***[~~his~~] successor is appointed and qualified.

(6) (a) The faculty member shall be a teaching or research member of the faculty of his ***or her*** respective university or college of the rank of assistant professor or above. ***The faculty member***[~~He~~] shall be elected by secret ballot by all faculty members of his ***or her*** university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be

eligible for reelection, but he ***or she*** shall not be eligible to continue to serve as a member of the board if he ***or she*** ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty ***representative***[~~representatives~~] of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ***or she*** ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(7) (a) The nonteaching personnel member in a regional university shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He ***or she*** shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. ***The member***[~~He~~] shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until ***a***[~~his~~] successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he ***or she*** shall not be eligible to continue to serve as a member of the board if he ***or she*** ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

(8) (a) The student member on a regional university board shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his ***or her*** position as student body president or[~~ his~~] status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.

(9) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020, as a condition of their service.

(10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.

[~~(11) The initial board of the Kentucky Community and Technical College System shall be appointed by July 31, 1997:~~]

~~(a) By not later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Nominating Committee shall submit nominations to the Governor as set forth in subsection (1) of this section for initial appointments to the board.~~

~~(b) By June 10, 1997, the board of trustees for the University of Kentucky shall submit nominations to the Governor, as set forth in subsection (1) of this section, for initial appointments to the board. For any subsequent appointment to be made from nominations from the board of trustees, the board of trustees shall forward nominations thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. If the Governor needs nominees of a particular sex in order to make an appointment, the board of trustees shall only provide~~

~~nominees of that sex.~~]

Section 3. KRS 164.350 is amended to read as follows:

(1) The government of each of the state universities and the Kentucky Community and Technical College System is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(a) Receive grants of money and expend the same for the use and benefit of the university or college;

(b) Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;

(c) Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;

(d) Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and

(e) Grant diplomas and confer degrees upon the recommendation of the president and faculty.

(2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.

(3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:

(a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the ***colleges within the system***[~~Technical Institutions' Branch and the University of Kentucky Community College System~~]. The guidelines[~~ pertaining to community colleges~~] shall define the processes for review and approval by the boards of directors for the [~~community~~]colleges;

(b) Adopt a biennial budget request for[~~ each branch of~~] the Kentucky Community and Technical College System upon the recommendation of the [~~chancellor for the respective branch and the~~] president of the system[~~.~~

~~1. The board of regents shall submit the biennial budget request for the Technical Institutions' Branch to the Council on Postsecondary Education for its action.~~

~~2. The board of regents shall transmit the biennial budget request for the University of Kentucky Community College System to the board of trustees of the University of Kentucky for consideration. The board of trustees shall review the biennial budget request for the University of Kentucky Community College System and shall transmit the biennial budget request for the University of Kentucky Community College System, along with recommendations to the council for its action.~~

~~3. The biennial budget request for the University of Kentucky, adopted by the board of trustees, shall identify the amount of funds by source and related purpose in the biennial budget request for administering the University of Kentucky Community College System except for the Lexington Community College.~~

~~4. All funds that are appropriated to the University of Kentucky for administering the Community College System, except for the Lexington Community College, shall be transferred and allotted to the board of regents~~];

(c) Adopt an allocation process for distributing[~~ the~~] funds[~~ appropriated to the Technical Institutions' Branch and the University of Kentucky Community College System by the General Assembly~~] to the ***colleges***[~~institutions~~] within the system;[~~ and~~]

(d) Consider recommendations from the boards of directors of the[~~ community~~] colleges to improve the overall budget planning and allocation processes***;***

(e) Designate each college with a name;

(f) Encourage and accept donations of land and funds to be used in the acquisition, construction, or operations of colleges in the system. The board may commemorate donations from private persons or corporations with suitable memorials; and

(g) Accept federal grants when deemed appropriate to be used in the acquisition, construction, or operations of colleges in the system.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted strategic agenda and biennial budget and with the missions of the institutions within the system.

Section 4. KRS 164.580 is amended to read as follows:

(1) The Kentucky Community and Technical College System is established. The Kentucky Community and Technical College System shall provide:

(a) A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;

(b) Technical and semiprofessional programs of two (2) years or less;

(c) Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented; and

(d) Services to Kentucky's employers and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state.

(2) The Kentucky Community and Technical College System shall be responsive to the needs of students and employers in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:

(a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;

(b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

(c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;

(d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;

(e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;

(f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;

(g) Enhance the flexibility and adaptability of Kentucky workers in an ever- changing and global economy through continuing education and customized training for business and industry;

(h) Promote the cultural and economic well-being of the communities throughout Kentucky; and

(i) Improve the quality of life for Kentucky's citizens.

(3) Students attending ***a college***~~[the University of Kentucky Community College System]~~ under the administration of the board of regents for the Kentucky Community and Technical College System may pursue ***three (3)***~~[four (4)]~~ kinds of degree programs:

(a) Associate degree programs approved by the board of trustees as of the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System~~[. These programs shall be periodically reviewed by a process established by the board of trustees of the University of Kentucky. A report shall be forwarded to the chancellor of the University of Kentucky Community College System, the board of regents, and the board of trustees. If the board of trustees finds that a degree program does not meet its prescribed standards of quality and the institution does not correct the deficiencies within a two (2) year period, the board of trustees may recommend to the Council on Postsecondary Education that the program no longer bear the name of the University of Kentucky. The board of trustees of the University of Kentucky shall confer degrees and award diplomas for these programs]~~;

(b)~~[New associate degree programs to be awarded in the name of the University of Kentucky. These degree programs shall be reviewed and approved by the board of regents prior to submission to the University of Kentucky board of trustees for approval. The programs shall be offered only after the approval of the Council on Postsecondary Education. The board of trustees shall confer degrees and award diplomas for these programs;~~

~~(c)]~~ Associate degree programs developed by the Kentucky Community and Technical College System, approved by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for the approved programs; and

(c)~~[(d)]~~Joint degree programs developed between the~~[University of]~~ Kentucky Community ***and Technical*** College System and~~[the Technical Institutions' Branch or]~~ other institutions.

(4) ~~[Degrees shall be conferred upon community college students and their diplomas awarded by the]~~University of Kentucky ***Community College System students who were officially enrolled on or before June 30, 1999, in associate degree programs approved by the*** board of trustees ***of***~~[. If the regional accrediting agency for the community colleges in the process of completing its substantive change process review determines that the organizational structure of the Kentucky Community and Technical College System and its board of regents does not meet the requirements for accrediting individual community colleges and for granting of degrees by]~~ the University of Kentucky ***and who complete the associate degree programs on or before June 30, 2004, shall have their degrees conferred by the University of Kentucky board of trustees. The degrees for all other students enrolled shall be awarded by the*** board of ***regents for***~~[trustees, then]~~ the Kentucky Community and Technical College ***System***~~[board of regents and the board of trustees shall initiate corrective actions within thirty (30) days of notification from the accrediting agency or within the time table specified by the accrediting agency to alleviate the problem]~~.

(5) The board of regents for the Kentucky Community and Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.

(6) The ***Kentucky Community and Technical College System***~~[University of Kentucky Community]~~ college faculty ***senates***~~[senate]~~ shall have the primary responsibility for determining academic policy and curricula development that shall be recommended~~[through the chancellor]~~ to the president of the Kentucky Community and Technical College System~~[and to the board of regents for approval]~~.

(7) The Technical Institutions' Branch through its faculty and accrediting procedures may develop~~[technical]~~ degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. A graduate of a program within three (3) years of the program becoming an accredited~~[technical]~~ degree program shall receive all or partial credit toward the degree, based on criteria established by the institution and approved by the board of regents. The board of regents shall confer degrees and award diplomas for these programs.

Section 5. KRS 164.600 is amended to read as follows:

(1) As used in this section, ***unless the context requires otherwise:***

(a) "Chief executive officer" means a president or the head administrator of a college within the Kentucky Community and Technical College System;

(b) "College" means a community college, a technical college, or a community and technical college within the system;

(c) "President" means the chief executive officer of the system;

(d) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law***; and***

(e) "System" means the Kentucky Community and Technical College System.

(2) There shall be a board of directors for each community college ***or community and technical college*** under the Kentucky Community and Technical College System, except as provided in KRS 165.160. ***The board of regents may designate that a local board of directors serve more than one college.*** Each board of directors shall:

(a) Recommend one (1) candidate for~~[the community]~~ college ***chief executive officer***~~[president]~~ from three (3) candidates provided by the president~~[of the Kentucky Community and Technical College System]~~. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;

(b) Evaluate the~~[community]~~ college ***chief executive officer***~~[president]~~ and advise the ***president***~~[chancellor]~~ of his or her performance. The president has final authority for the appointment and termination of the~~[community]~~ college ***chief executive officer***~~[president]~~;

(c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

(d) Adopt and amend an annual operating budget and submit it to the board of regents~~[of the Kentucky Community and Technical College System]~~ for approval as to the compliance with its guidelines;

(e) Approve~~[and implement]~~ a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.

(3) The ***chief executive officer***~~[president]~~ of each~~[community]~~ college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS 164.350.

(4) Each board of directors shall consist of ten (10) members, seven (7) of whom shall be appointed by the Governor from nominees of the respective~~[community]~~ college nominating commission established under KRS 164.602 for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other three (3) board members shall be one (1) member of the teaching faculty, one (1) member of the staff, and one (1) member of the student body. An appointed member's term shall be six (6) years.

(5) The faculty member shall be on the teaching or research faculty of the~~[community]~~ college. The faculty member shall be elected by secret ballot of all full-time faculty members of the~~[community]~~ college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the ~~[community]~~college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(6) The staff member shall be a classified or midmanagement employee who does not hold faculty rank and who does not hold an upper administrative position. The staff member shall be elected by secret ballot of all full-time staff members of the ~~[community]~~college. Staff members shall serve for terms of three (3) years and until their successors are elected and qualified. Staff members shall be eligible for reelection, but shall be ineligible to continue to serve as members of the boards if they cease to be members of the staff of the~~[community]~~ college. An election to fill a vacancy for an unexpired term shall be held in the same manner as an election to an original full term.

(7) The student member shall be ***elected by secret ballot from*** the[~~ president of the~~] student body of the[~~ community~~] college ***to serve a term of one (1) year***.[~~ If~~] The [~~president of the~~] student ***member shall be***[~~body is not~~] a full-time student who maintains permanent residency in the Commonwealth of Kentucky[~~, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member~~].

(8) ***If a board of directors is designated by the board of regents to serve more than one college as permitted under subsection (2) of this section, the board of regents shall define procedures for the selection of the faculty, staff, and student representatives to the board of directors to ensure that there is opportunity for all colleges to be represented.***

(9) The members of the board of directors shall receive no compensation for their services but shall be paid for their actual and necessary expenses.

(10)[~~(9)~~] No citizen member of the board of directors shall have a conflict of interest in accordance with KRS 45A.340 or be a relative of any employee of the[~~ community~~] college under its jurisdiction. A person who is a member of the board on July 15, 1998, who is a relative of an employee of the[~~ community~~] college may finish out the appointed term of office but the member may not be reappointed.

[~~(10) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.~~]

Section 6. KRS 164.602 is amended to read as follows:

(1) There shall be a nominating commission for each[~~ community~~] college board of directors ***required under Section 5 of this Act*** to provide names of nominees to the Governor for appointment to the board of directors.

(2) (a) Each nominating commission shall be composed of five (5) members appointed by the Governor who shall reside in the service area of the [~~community~~]college at the time of their appointment. Commission members shall have no conflict of interest in accordance with KRS 45A.340 or have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television.

(b) Members of the nominating commission shall serve four (4) year terms, or until a successor shall be appointed, except the initial appointments shall be as follows:

1. One (1) member shall serve a one (1) year term;
2. Two (2) members shall serve a two (2) year term;
3. One (1) member shall serve a three (3) year term; and
4. One (1) member shall serve a four (4) year term.

(3) The Governor shall appoint commission members who reflect, inasmuch as possible, equal representation of the two (2) sexes and in the context of the total membership of all of the commissions, shall approximate the proportional representation of the two (2) leading political parties and the minority racial composition of the state.

(4) (a) The nominating commission shall submit to the Governor the names of three (3) nominees for each position on the board of directors who meet the eligibility criteria for membership under KRS 164.600.

(b) In the selection of the nominees, the nominating commission shall consider the needs of the respective[~~ community~~] college, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary. The commission shall consider the goals for diversity of membership as set out in subsection (3) of this section.

(c) Each appointment to the board of directors shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor may reject all names of nominees and request the submission of three (3) additional names for consideration.

(5) The members of the commissions shall be reimbursed for actual and necessary expenditures incurred in the performance of their duties.

(6) The nominating commissions shall be attached to the Kentucky Community and Technical College System and the Governor's office staff shall provide staffing and administrative assistance.

Section 7. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

(a) Contractual services where no competition exists;

(b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

(c) Instructional materials available from only one (1) source;

(d) Where rates are fixed by law or ordinance;

(e) Library books;

(f) Commercial items that are purchased for resale;

(g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

(h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

(i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

(13) The acquisition and disposition of real property for the ***colleges under the jurisdiction of the Kentucky Community and Technical College board of regents that are the property of the*** University of Kentucky~~[Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System]~~ shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval.

Section 8. The following KRS section are repealed:

164.581 President of Kentucky Community and Technical College System -- Chancellors of Community College System and Technical Institutions' Branch.

164.5815 President's biennial report.

164.595 Powers of board of regents for the Kentucky Community and Technical College System.

164.597 Northern Community College to be operated by Northern Kentucky University -- Programs.

HCR 15, A CONCURRENT RESOLUTION designating February as Character Education Month in Kentucky.

WHEREAS, character education strives to teach and reinforce core ethical values of caring, honesty, fairness, responsibility, and respect for self and others; and

WHEREAS, effective character education programs encompass positive development of the cognitive, emotional, and behavioral aspects of all Kentucky students; and

WHEREAS, character education requires an intentional, proactive, and comprehensive approach to developing and implementing the core ethical values in all aspects of life; and

WHEREAS, character education must be embodied in a caring school community that provides students the opportunity to develop core values by participating in cooperative learning groups, reaching consensus in class meetings and projects, carrying out service learning projects, and reducing fights and other altercations on playgrounds and other recreational settings; and

WHEREAS, character education has direct application to the development of higher level academic skills, including problem-solving, tolerance for other perspectives or points of view, and the development and testing of options and alternatives to resolve conflicts or disputes; and

WHEREAS, the Kentucky General Assembly in the year 2000 declared character education as one of the basic skills Kentucky public schools should ensure students have developed prior to graduation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The month of February is designated as Character Education month and the Department of Education is encouraged to publicize and promote the efforts of Kentucky public schools to instill the core values of self-sufficiency, altruism, citizenship, courtesy, honesty, human worth, justice, knowledge, respect, responsibility, and self-discipline in Kentucky students.

The Committee Substitute to **HCR 15** is as follows:

HCR 15, A CONCURRENT RESOLUTION designating September as Character Education Month in Kentucky.

WHEREAS, character education strives to teach and reinforce core ethical values of caring, honesty, fairness, responsibility, and respect for self and others; and

WHEREAS, effective character education programs encompass positive development of the cognitive, emotional, and behavioral aspects of all Kentucky students; and

WHEREAS, character education requires an intentional, proactive, and comprehensive approach to developing and implementing the core ethical values in all aspects of life; and

WHEREAS, character education must be embodied in a caring school community that provides students the opportunity to develop core values by participating in cooperative learning groups, reaching consensus in class meetings and projects, carrying out service learning projects, and reducing fights and other altercations on playgrounds and other recreational settings; and

WHEREAS, character education has direct application to the development of higher level academic skills, including problem-solving, tolerance for other perspectives or points of view, and the development and testing of options and alternatives to resolve conflicts or disputes; and

WHEREAS, the Kentucky General Assembly in the year 2000 declared character education as one of the basic skills Kentucky public schools should ensure students have developed prior to graduation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The month of September is designated as Character Education month and the Department of Education is encouraged to publicize and promote the efforts of Kentucky public schools to instill the core values of self-sufficiency, altruism, citizenship, courtesy, honesty, human worth, justice, knowledge, respect, responsibility, and self-discipline in Kentucky students.

HCR 20, A CONCURRENT RESOLUTION directing a study of student and citizen education regarding energy resources, their uses, and their impacts on the Commonwealth of Kentucky and the lives of its citizens by the Interim Joint Committee on Education, and supporting the creation of an Energy Education Foundation.

WHEREAS, fossil fuels, renewable energy sources, and improved energy efficiency all have a role in Kentucky's energy future; and

WHEREAS, energy resource exploration, production, and use have significant impacts on Kentucky's citizens, its environment, and its economy; and

WHEREAS, a knowledge and understanding of these impacts can help guide individual and collective decision-making that minimizes negative impacts while promoting a healthier, more economically prosperous future; and

WHEREAS, today's college graduates in energy-related fields need to be ensured of adequate employment opportunities in Kentucky; and

WHEREAS, it is in the best interest of the Commonwealth to retain college graduates in energy-related fields; and

WHEREAS, the highly skilled and productive workforce in energy-related fields is diminishing in the Commonwealth; and

WHEREAS, a science-based K-12 energy education curriculum can provide tomorrow's citizens and leaders with the skills and knowledge to make wise decisions that will benefit our environment and economy; and

WHEREAS, Kentucky's postsecondary education institutions need to better compete on a national level for research, development, and demonstration grants and fellowships that explore cutting-edge energy science, technology, and design methods; and

WHEREAS, consumers today have a broad range of energy-efficient products from which to choose that help them save money while protecting the environment, and an awareness of these products and their benefits helps consumers make wise buying decisions; and

WHEREAS, all stakeholders involved in developing the twenty-year energy strategy for the Commonwealth of Kentucky recognize that energy education is vital to the Commonwealth's prosperity and growth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. This honorable body declares its support for the creation of an Energy Education Foundation in partnership with the energy industry to produce a highly skilled energy workforce that can complement and expand all energy-related disciplines within Kentucky.

Section 2. During the 2003 legislative interim, the Interim Joint Committee on Education is directed to study the issue of energy education for elementary, secondary, and postsecondary students and the general public. The study shall include an investigation of:

(1) Ways in which elementary and secondary schools can incorporate a science-based energy education curriculum into a comprehensive environmental education program to enable students to make sound energy decisions in the future, and to prepare interested students for postgraduate education and career opportunities in energy related-fields;

(2) Strategies for public and private colleges and universities of Kentucky to increase the number of highly qualified college graduates in energy-related fields, including energy-conscious design methods;

(3) The potential need for colleges and universities, in consultation with representatives of the energy industry and other stakeholders, to expand course offerings and areas of concentration relating to the appropriate production and efficient use of energy resources; and

(4) Possible means to provide a funding mechanism to support consumer awareness of energy-efficient products, services, and design methods and to help citizens realize the full monetary and environmental benefits of energy efficiency.

Section 3. The committee shall report its findings and recommendations for legislative action to the Legislative Research Commission by November 1, 2003.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

HCR 32, A CONCURRENT RESOLUTION confirming the appointment of Jeffrey C. Mando to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Jeffrey C. Mando as a member of the Kentucky Board of Education representing the Sixth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Jeffrey C. Mando's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Jeffrey C. Mando meets the requirements established in

KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Jeffrey C. Mando to the Kentucky Board of Education for a term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and Jeffrey C. Mando, 2015 River Vista Court, Villa Hills, Kentucky 41011, in writing, of the General Assembly's action.

HCR 33, A CONCURRENT RESOLUTION confirming the reappointment of Terry J. Poindexter to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint fifteen (15) citizen members of the Education Professional Standards Board, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, pursuant to KRS 161.028, the Governor has reappointed Terry J. Poindexter as a citizen member of the Education Professional Standards Board representing middle or secondary teachers for a term expiring September 18, 2006; and

WHEREAS, the Senate and the House of Representatives find that Terry J. Poindexter is qualified to render service;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, pursuant to KRS 161.028, do confirm the reappointment of Terry J. Poindexter to the Education Professional Standards Board for a term expiring September 18, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Mrs. Terry J. Poindexter, 318 West Robbins Street, Covington, Kentucky 41011, and to Governor Paul E. Patton, Room 100 State Capitol, Frankfort, Kentucky 40601.

HCR 34, A CONCURRENT RESOLUTION confirming the appointment of Esther P. Jansing to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint the thirteen citizen members of the Council on Postsecondary Education, subject to the confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 164.011, the Governor has appointed Esther P. Jansing as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2005; and

WHEREAS, the Senate and the House of Representatives find that Ms. Jansing meets the requirements of KRS 164.011, being a resident and qualified voter of Kentucky, not holding an official relationship to any institution of higher education in Kentucky, and not engaging in any occupation or business inconsistent with her duties as a member of the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, pursuant to KRS 164.011, do confirm the appointment of Esther P. Jansing to the Council on Postsecondary Education for a term expiring on December 31, 2005.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and written notice of its adoption to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Esther P. Jansing, 1915 Littlewood Drive, Owensboro, Kentucky 42301-4690.

HCR 35, A CONCURRENT RESOLUTION confirming the appointment of Wallace Campbell to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members of the Education Professional Standards Board, subject to confirmation by the Senate and House of Representatives; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Wallace Campbell as a citizen member of the Education Professional Standards Board representing chief academic officers for a term expiring September 18, 2006; and

WHEREAS, the Senate and the House of Representatives find that Dr. Campbell is qualified to render service;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, pursuant to KRS 161.028, do confirm the appointment of Dr. Wallace Campbell to the Education Professional Standards Board for a term expiring September 18, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Dr. Wallace Campbell, 147 North Elm Street, Pikeville, Kentucky 41501, and to Governor Paul E. Patton, Room 100 State Capitol, Frankfort, Kentucky 40601.

HCR 36, A CONCURRENT RESOLUTION confirming the reappointment of Peggy M. Bertelsman to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint thirteen citizen members to the Council on Postsecondary Education, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, the Governor has reappointed Peggy M. Bertelsman as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2008; and

WHEREAS, the House of Representatives and the Senate find that Peggy M. Bertelsman meets the requirements of KRS 164.0053 and KRS 164.011 for service on the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 164.011, hereby confirm the reappointment of Peggy M. Bertelsman to the Council on Postsecondary Education for a term expiring December 31, 2008.

Section 2. The Clerk of the House of Representatives shall notify Peggy M. Bertelsman, 25 Mt. Pleasant Lane, Fort Thomas, Kentucky 41075 and Governor Paul E. Patton, State Capitol, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

HCR 37, A CONCURRENT RESOLUTION confirming the reappointment of Helen W. Mountjoy to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has reappointed Helen W. Mountjoy as a member of the Kentucky Board of Education representing the Second Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Helen W. Mountjoy's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Helen W. Mountjoy meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of Helen W. Mountjoy to the Kentucky Board of Education for a term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and Helen W. Mountjoy, 449 Browns Valley Road, Utica, Kentucky 42376, in writing, of the General Assembly's action.

HCR 39, A CONCURRENT RESOLUTION confirming the reappointment of R. Keith Travis to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has reappointed R. Keith Travis as a member of the Kentucky Board of Education representing the First Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered R. Keith Travis' name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that R. Keith Travis meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the reappointment of R. Keith Travis to the Kentucky Board of Education for a term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and R. Keith Travis, 4290 Lakeview Church Road, Benton, Kentucky 42025, in writing, of the General Assembly's action.

HCR 40, A CONCURRENT RESOLUTION confirming the appointment of Janice B. Allen to the Kentucky Board of Education.

WHEREAS, in accordance with KRS 156.029, the Governor has appointed Janice B. Allen as a member of the Kentucky Board of Education representing the Seventh Supreme Court District to replace William R. Weinberg, who has resigned, for the remainder of the unexpired term ending April 14, 2006; and

WHEREAS, appointment to the Kentucky Board of Education is subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, by letter dated December 19, 2002, the Governor has delivered Janice B. Allen's name for confirmation as a member of the Kentucky Board of Education, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Janice B. Allen meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Janice B. Allen as a member of the Kentucky Board of Education representing the Seventh Supreme Court District to replace William R. Weinberg, who has resigned, for the remainder of the unexpired term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives shall notify Janice B. Allen, 1135 South Lake Drive, Prestonsburg, Kentucky 41653 and Governor Paul E. Patton, State Capitol, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

HCR 41, A CONCURRENT RESOLUTION confirming the appointment of Eleanore C. Thompson to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint fifteen citizen members of the Education Professional Standards Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Eleanore C. Thompson as a member of the Education Professional Standards Board representing elementary teachers to complete the unexpired term of Beverly Lee Tomlin for a term expiring on September 18, 2002; and

WHEREAS, the Senate and the House of Representatives find that Ms. Thompson is qualified to render service;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, pursuant to 161.028, do confirm the appointment of Eleanore C. Thompson to the Education Professional Standards Board for a term expiring September 18, 2002.

Section 2. The Clerk of the House shall forward a copy of this Resolution, and written notification of its adoption, to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Ms. Eleanore C. Thompson, Route 1, Box 12, Mt. Olivet, Kentucky 41064.

The Committee Substitute to **HCR 41** is as follows:

HCR 41, A CONCURRENT RESOLUTION confirming the appointment of Eleanore C. Thompson to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint fifteen citizen members of the Education Professional Standards Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Eleanore C. Thompson as a member of the Education

Professional Standards Board representing elementary teachers for a term expiring on September 18, 2006; and

WHEREAS, the Senate and the House of Representatives find that Ms. Thompson is qualified to render service;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, pursuant to 161.028, do confirm the appointment of Eleanore C. Thompson to the Education Professional Standards Board for a term expiring September 18, 2006.

Section 2. The Clerk of the House shall forward a copy of this Resolution, and written notification of its adoption, to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Ms. Eleanore C. Thompson, Route 1, Box 12, Mt. Olivet, Kentucky 41064.

HCR 42, A CONCURRENT RESOLUTION confirming the appointment of Dorothy Z. Combs to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Dorothy Z. Combs as a member of the Kentucky Board of Education representing the Fifth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Dorothy Z. Combs' name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Dorothy Z. Combs meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Dorothy Z. Combs, Ph.D. to the Kentucky Board of Education for a term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and Dorothy Z. Combs, Ph.D., 520 Farmington Court, Richmond, Kentucky 40475, in writing, of the General Assembly's action.

HCR 43, A CONCURRENT RESOLUTION confirming the appointment of David B. Tachau to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed David B. Tachau as a member of the Kentucky Board of Education representing the Fourth Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered David B. Tachau's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that David B. Tachau meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of David B. Tachau to the Kentucky Board of Education for a term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and David B. Tachau, 3710 Fairway Lane, Louisville, Kentucky 40207, in writing, of the General Assembly's action.

HCR 44, A CONCURRENT RESOLUTION confirming the appointment of Hilma S. Prather to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Hilma S. Prather as a member of the Kentucky Board of Education representing the Third Supreme Court District for a term expiring April 14, 2006; and

WHEREAS, by letter dated May 10, 2002, the Governor has delivered Hilma S. Prather's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Hilma S. Prather meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Hilma S. Prather to the Kentucky Board of Education for a term ending April 14, 2006.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601 and Hilma S. Prather, 510 North Main Street, Somerset, Kentucky 42501, in writing, of the General Assembly's action.

The Committee on Banking and Insurance reported **HB 70** and **HB 75** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 70, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 434.550 TO 434.730 IS ENACTED TO READ AS FOLLOWS:

(1) No person that accepts credit cards or debit cards for the transaction of business shall print more than the last five (5) digits of the credit card or debit card account number or print the credit card or debit card expiration date on a credit card receipt or debit card receipt that is given to the purchaser.

(2) This section shall apply only to receipts that are electronically printed and shall not apply to transactions in which the sole means of recording the credit card number or debit card number is by handwriting or by an imprint or copy of the credit card or debit card.

(3) Any person that accepts credit cards or debit cards for the transaction of business shall take reasonable actions to ensure that the receipts which the person retains for business purposes do not come into the possession of unauthorized persons and are shredded, burned, or otherwise destroyed when no longer needed for business purposes.

(4) Where the person accepting credit or debit cards for business contracts with another for the processing of the credit and debit transactions, including with a bank or other financial institution, and the configuration of the hardware or software utilized in the processing is under the exclusive control of the other person, the responsibility for compliance with subsection (1) of this section shall shift to that other person.

SECTION 2. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. "Merchant" also means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.

(b) "Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

(c) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.

(d) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

(2) No person shall use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant. A person who violates the provisions of this subsection shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(3) No person shall use a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant. A person who violates the provisions of this subsection shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

Section 3. Section 1 of this Act shall become effective and shall apply on January 1, 2004, to any cash register or other machine or device that electronically prints receipts on credit card or debit card transactions and which is placed into service on or after January 1, 2004, and on January 1, 2006, to any cash register or other machine or device that electronically prints receipts on credit card or debit card transactions and which is placed in service prior to January 1, 2004.

HB 75, AN ACT relating to office location of mortgage loan brokers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "physical location" means an actual office where the business of mortgage lending or the business of taking or soliciting mortgage loan applications is conducted. The office shall have a street address. A post office box or similar designation shall not meet the requirements of this section. The office shall be accessible to the general public as a place of business and shall hold itself open on a regular basis during posted hours, unless the office is in the residence of the mortgage loan broker and proof of residence has been submitted as required by subsection (7) of Section 2 of this Act.

(2) (a) Each mortgage loan broker licensed under this chapter shall maintain a physical location in this state.

(b) Any mortgage loan broker licensed under this chapter who, on the effective date of this Act, does not maintain a physical location in this state shall have ninety (90) days after the effective date of this Act in which to establish one. After the ninety (90) day period, a mortgage loan broker licensed under this chapter on the effective date of this Act shall not transact business in Kentucky if the licensed mortgage loan broker does not maintain a physical location in this state.

(3) The licensed certificate of a mortgage loan broker shall be at all times prominently displayed at the mortgage loan broker's physical location.

Section 2. KRS 294.032 is amended to read as follows:

(1) A license as a mortgage loan company or a mortgage loan broker may be obtained by filing a written application with the commissioner.

(2) The application shall:

(a) Be sworn to;

(b) State the name of the applicant and each of the applicant's affiliates engaged in business as a mortgage loan company or a mortgage loan broker;

(c) State the name under which the applicant will conduct business in Kentucky;

(d) State the location of the applicant's principal office and branch offices in Kentucky;

(e) List the name, residence, and business address of each person having an interest in the business as principal, partner, officer, trustee, and director, specifying the capacity and title of each;

(f) Indicate the general plan and character of the business;

(g) Contain a corporate surety bond or other instrument as prescribed by KRS 294.060;

(h) If applying for a mortgage loan broker license, contain a compiled financial statement of the applicant; or, if applying for a mortgage loan company license, contain a reviewed or audited financial statement of the applicant prepared by a licensed or certified public accountant;

(i) Require payment of the appropriate registration fees; and

(j) Require such other information as the commissioner determines necessary.

(3) No mortgage loan company license may be granted unless the applicant has and maintains, so long as the license is in effect, a minimum, documented funding source of five hundred thousand dollars ($500,000). If a mortgage loan company has a net worth in excess of five hundred thousand dollars ($500,000), an additional funding source is not required.

(4) ***A***~~[If a licensee is a person other than a natural person, the]~~ license issued to ***a mortgage loan company or mortgage loan broker***~~[it]~~ shall entitle all officers and employees~~[of the person]~~, if a corporation, and all members, partners, trustees, and employees, if an association, partnership, ***natural person,*** or trust, to engage in the mortgage loan business licensed pursuant to this chapter.

(5) If a licensee desires to establish a branch office in Kentucky not already approved, the licensee shall file a registration statement with the commissioner that includes the address and telephone number of the branch office, the name of the prospective manager, the anticipated opening date, and any other information prescribed by the commissioner.

(6) All applicants for a mortgage loan broker license shall have successfully completed an educational training course, approved by the department, of not less than thirty (30) ***classroom*** hours' duration. Mortgage loan brokers who have held a license for at least one (1) year shall be exempt from this requirement. This section shall not become effective until the department has approved at least one (1) educational training course. This section shall not apply to renewals of existing licenses.

(7) (a) On and after the effective date of this Act, the application for a mortgage loan broker license shall state the address of the physical location where the business is to be located in compliance with Section 1 of this Act and whether such location is a residence. Photographs of the exterior, interior, and exterior sign of each location shall accompany the application. If the physical location is not a residence and is leased, the lease shall be for a term of at least one (1) year and a copy of the lease and the names of all employees conducting business under

the lease shall accompany the application. If the physical location is a residence, proof that the location is a residence, in a form as required by the commissioner, shall accompany the application. Proof of residence shall confirm that the mortgage loan broker owns or leases the residence and lives in the residence as the mortgage loan broker's main residence. Proof of physical location shall include proof that local zoning requirements are satisfied.

(b) The information required by paragraph (a) of this subsection shall be required for renewals of existing licenses, which will expire on June 30, 2004, and for all renewals of licenses thereafter.

(c) At least ten (10) days prior to the effective date of an address change of the mortgage loan broker's physical location, the mortgage loan broker shall notify the commissioner in writing of the address change and shall include the information required by paragraph (a) of this subsection.

Section 3. KRS 294.034 is amended to read as follows:

(1) An applicant for a license under this chapter shall provide the commissioner with separate checks payable to the Kentucky State Treasurer for:

(a) An investigation fee of three hundred dollars ($300) for the principal office and one hundred fifty dollars ($150) for each branch office; and

(b) A license fee of four hundred fifty dollars ($450) for the principal office and two hundred fifty dollars ($250) for each branch in Kentucky if the applicant applies for a license on or between July 1 and December 31 or of one hundred fifty dollars ($150) for the principal office and one hundred dollars ($100) for each branch if the applicant applies for a license on or between January 1 and June 30.

(2) A license under this chapter shall expire June 30 next after the date of issuance if it is not renewed.

(3) A license may be renewed by paying the annual fee for renewing a license which is three hundred fifty dollars ($350) for the main office and two hundred fifty dollars ($250) for each branch office in Kentucky, and submitting an annual report of activity as prescribed by the commissioner, and any other information required by the commissioner. ***The commissioner shall not approve the renewal of a mortgage loan broker's license if the commissioner has not received the information on physical location as required in subsection (7) of Section 2 of this Act.***

(4) The information and payment shall be received by the commissioner on or before June 20 prior to the June 30 expiration date. The commissioner may reinstate the license if the licensee pays the filing fee and a reinstatement fee of ***two hundred fifty dollars ($250)***[~~one hundred dollars ($100)~~].

(5) The department shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar ($10) replacement fee.

The Committee on Licensing and Occupations reported **HB 139**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 139, AN ACT relating to the sale of alcoholic beverages to minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.085 is amended to read as follows:

(1) As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:

(a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, distillery or brewery or winery tour, ***or*** establishment where prebooked concerts with advance ticket sales are held[~~, or any facility in which there is maintained in inventory on the premises for sale at~~

~~retail no less than five thousand dollars ($5,000) of food, groceries, and related products valued at cost~~]. For purposes of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts;

(b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; or

(c) Written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state administrator shall approve or deny the request in writing.

(7) Except as provided in subsection (6) of this section, a licensee or his or her agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

The Committee Substitute to **HB 139** is as follows:

HB 139, AN ACT relating to the sale of alcoholic beverages to minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.085 is amended to read as follows:

(1) As used in KRS 244.083 and this section: "Premises" has the meaning it is given in KRS 241.010 and also means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(2) A person under 21 years of age shall not enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(3) A person under 21 years of age shall not possess for his or her own use or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. No person shall aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(4) A person under 21 years of age shall not misrepresent his or her age for the purpose of inducing any licensee, or the licensee's agent, servant, or employee, to sell or serve any alcoholic beverages to the underage person.

(5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents, servants, or employees shall not permit any person under twenty-one (21) years of age to remain on any premises where alcoholic beverages are sold by the drink or consumed on the premises, unless:

(a) The usual and customary business of the establishment is a hotel, motel, restaurant, convention center, convention hotel complex, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex, athletic arena, theater, distillery or brewery or winery tour, establishment where prebooked concerts with advance ticket sales are held, ***convenience store, grocery store, drug store, or similar establishment***[~~ or any facility in which there is maintained in inventory on the premises for sale at retail no less than five thousand dollars ($5,000) of food, groceries, and related products valued at cost~~]. For purposes of this paragraph, house bands, disc jockeys, and karaoke are not considered concerts;

(b) All alcoholic beverage inventory is kept in a separate, locked department at all times when minors are on the premises; or

(c) Written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The licensee's request shall be in writing and shall specifically describe the event for which approval is requested. The state administrator shall approve or deny the request in writing.

(7) Except as provided in subsection (6) of this section, a licensee or his or her agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

Pursuant to **HR 2,** the Speaker appointed the following committee, to wait upon Governor Paul E. Patton: Representatives Gray, Sims, Wayne, Simpson, Stacy, and Stewart.

Representative J. Adams moved that the rules be suspended to grant floor privileges to a special guest, Nelda Barnett. Agreed.

HR 12 honoring Nelda Barnett was previously adopted by the House on January 8, 2003.

Representative J. Arnold moved that the rules be suspended to act on a Resolution. Agreed.

Representative J. Arnold moved the adoption of the following **HR 101**:

HR 101, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Payton Michael McElroy.

WHEREAS, it is with heavy hearts and deep sadness to learn of the premature passing of little Payton Michael McElroy; and

WHEREAS, Payton Michael McElroy was born on August 8, 1997, a native of Union County, Kentucky, and she prematurely traversed these earthly bounds on January 22, 2003; and

WHEREAS, Payton Michael McElroy was the adored daughter of Doug and Jennifer McElroy, and she was the loving sister of Judd McElroy; she leaves behind loving grandparents, Jim and Niesje McElroy and Mike and Brenda Thomas, all of Morganfield; and she also leaves behind loving great-grandparents, Sam and Annie Meacham McElroy of Waverly, and George and Janice Thompson and Cecilia Thomas, all of Morganfield; and

WHEREAS, in the aftermath of this tragic accident, we are reminded of the grief and suffering afflicted upon the family of Payton Michael McElroy, and during this time of pain and sorrow, our hearts and prayers are extended to them; and

WHEREAS, the passing of little Payton Michael McElroy has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its most profound sense of loss and bereavement upon the passing of Payton Michael McElroy, and extends to her family its heartfelt sympathy and condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Payton Michael McElroy.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Doug McElroy, 5000 US Hwy. 60E, Waverly, Kentucky 42462, and to the Honorable and Mrs. Sam McElroy, Route 1, P. O. Box 73, Waverly, Kentucky 42462.

There being no objection, **HR 101** was adopted.

The roll call was opened for co-sponsors of **HR 101**, and on the roll call the vote was: **Yeas 93** (See February 5, 2003, roll call to show co-sponsors of **HR 101** - Appendix).

Representative McKee moved the adoption of the following **HR 81**:

HR 81, A RESOLUTION adjourning the House of Representatives in honor of Ed Miller upon the occasion of his retirement from the Kentucky General Assembly.

WHEREAS, Ed Miller is a graduate of Eastern Kentucky University where he was a member of Alpha Phi Sigma, he is a member of the Eastern Kentucky University Alumni Association, and he was named Distinguished Alumnus by the College of Law Enforcement at EKU; and

WHEREAS, Ed Miller served his country with honor and distinction in the United States Marine Corps, and he is a member of the Marine Corps League and the American Legion; and

WHEREAS, throughout the years, Ed Miller has been an active and involved public servant, serving as Deputy Secretary of the Kentucky Justice Cabinet, Commissioner of the Department of Criminal Justice Training, and Deputy Commissioner of the Department for Employment; and

WHEREAS, Ed Miller represented his constituents from the thirtieth Senatorial District with pride and honesty while exemplifying professionalism and high standards; and he has served his colleagues and fellow committee members with great integrity and dedication; and during his tenure in the Senate, he diligently served on the Health and Welfare Committee, Licensing and Occupations Committee, State and Local Government Committee, and the Veterans, Military Affairs and Public Protection Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby salute and commend Ed Miller for his many years of dedicated service to the citizens of this Commonwealth. Upon his retirement from the Kentucky General Assembly, we wish him success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Ed Miller.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Thomas McKee for presentation to Ed Miller.

There being no objection, **HR 81** was adopted.

Representative Ford moved the adoption of the following **Legislative Citation No. 9**. Agreed.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Brother Rolla Cornelius and joins with Representative Danny Ford in expressing deepest sympathy to all who mourn the passing of this distinguished and highly-regarded gentleman. Survived by his beloved son, Ken Cornelius; grandchildren, Gina Nicely, Kimberly Cornelius, Chris Cornelius and Kenny Cornelius; and, a host of other family members, friends and loved ones, this esteemed citizen, a lifelong resident of Rockcastle County, Kentucky, and a retired Pentecostal minister who faithfully conveyed the word of God for sixty-five years, is remembered on this day for the many and generous contributions he made to his family, his community, and to this fine Commonwealth. Brother Rolla Cornelius will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this fifth day of February, in the year two thousand and three.

Legislative Citation No. 9 was adopted without objection.

Representative Edmonds moved that the rules be suspended to act on a Resolution. Agreed.

Representative Edmonds moved the adoption of the following **HR 100**:

HR 100, A RESOLUTION commending Experience Works.

WHEREAS, Experience Works (formerly Green Thumb, Inc.), a national nonprofit community-based organization, has served the citizens of Kentucky for over 34 years; and

WHEREAS, as a result of the services provided by Experience Works, thousands of low-income, older individuals have received valuable training and employment assistance that have improved the quality of their lives and enabled them to remain productive and independent; local communities have become stronger when critical human needs, from child and elder care to education and public safety, have been addressed by Experience Works participants and staff; and the business community has benefited by relying on Experience Works as a reliable source of skilled, experienced, and dedicated workers that help them be competitive in a rapidly changing environment; and

WHEREAS, Experience Works is providing a valuable public service by helping to change negative attitudes about growing older and by expanding training, employment, and community service opportunities for mature individuals at a time when our population is rapidly aging; and

WHEREAS, Experience Works consistently exceeds its goals while serving those most in need and while operating in some of the most rural and economically depressed areas of our Commonwealth; and

WHEREAS, Experience Works has consistently demonstrated exceptional fiscal and program accountability and provides taxpayers with a positive return on their investment; and

WHEREAS, Experience Works has established an extensive, cost-effective, and innovative service delivery system that is an exemplary public/private partnership and a model for others to follow;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby commend Experience Works for its significant contributions to the citizens of our Commonwealth and enthusiastically endorses its efforts to expand its services to help more older individuals, communities, and businesses under the Senior Community Service Employment Program and other initiatives.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Ted "Teddy" Edmonds for presentation to Experience Works.

There being no objection, **HR 100** was adopted.

The roll call was opened for co-sponsors of **HR 100**, and on the roll call the vote was: **Yeas 78** (See February 5, 2003, roll call to show co-sponsors of **HR 100** - Appendix).

Representative Stumbo moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Hoover moved the adoption of the following **Legislative Citation No. 8**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed Senator Mitch McConnell and imparts to him the collective best wishes of the Kentucky House of Representatives that he may make a full and swift recovery after having undergone triple bypass surgery on Monday, February 3, 2003, at the National Naval Medical Center in Bethesda, Maryland. It is hoped by each member of this body that the distinguished Senator McConnell, who also serves the 108th Congress as the Senate Majority Whip, will emerge from this major event with renewed vigor and will continue to serve the people of this Commonwealth with his typical enthusiasm and savvy. The members of this august body are indeed honored to join Representative Jeffrey Hoover and Representative Gregory D. Stumbo in extending to Senator McConnell and his wife, Labor Secretary Elaine L. Chao, best wishes as he continues to most ably serve the citizens of this Commonwealth and Nation. Done in Frankfort, Kentucky, this fifth day of February, in the year two thousand and three.

Legislative Citation No. 8 was adopted without objection.

Representative Denham moved that the rules be suspended to act on a Resolution. Agreed.

Representative Denham moved the adoption of the following **HR 29**:

HR 29, A RESOLUTION adjourning the House of Representatives in loving memory and honor of John David Gantley.

With deepest respect and admiration, we pay homage and tribute to John David Gantley, and we pause in silent reverence for his soul.

WHEREAS, John David Gantley was born on December 2, 1945, a native of Maysville, Mason County, Kentucky, and he traversed these earthly bounds on September 18, 2002; and

WHEREAS, John David Gantley was the loving son of Mary Dwelley Gantley and the late Jones Gantley; he was preceded in death by a loving daughter, Julie Gantley Nordengren; he was the devoted husband of Jana Gantley; and he was the proud and loving father of a son, Chris Gantley, and a stepdaughter, Jennifer Carpenter; and

WHEREAS, John David Gantley retired as fire chief of the Maysville Fire Department in June 2002, where he had been employed for 30 years, and he was highly respected by the citizens of Mason County for his professionalism and dedication to his community; and

WHEREAS, John David Gantley was a devout member of St. Patrick's Catholic Church, where his funeral Mass was held on September 21, 2002; he will be remembered as an active and involved citizen, and an esteemed member of the Mason County community; he was committed to the youth of Mason County, and he was a board member of the Young Men's Christian Association; and he was a well-known road horse and road pony trainer and exhibitor, a member of the American Road Horse and Pony Association, and a member of the American Hackney Horse Society; and

WHEREAS, the passing of John David Gantley has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of John David Gantley, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of John David Gantley.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Jana Gantley, 6889 Kentucky 11, Mayslick, Kentucky 41055.

There being no objection, **HR 29** was adopted.

Representative Crimm moved that **HB 134** be withdrawn. Agreed.

Representative Riner moved that **HB 212** be withdrawn. Agreed.

Representative Stumbo moved that the posting be waived on the following bills and resolutions: **HB 27, 194, 270, HJR 16, HCR 17, HB 109, 267, 122, 175, 230, 231, 232,** and **233**. Agreed.

Representative Stumbo moved that **HB 99** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Comer moved that **HB 176** be withdrawn. Agreed.

Representative Nesler moved the adoption of the following **HR 76**:

HR 76, A RESOLUTION adjourning the House of Representatives in loving memory and honor of John William "J. W." Thompson.

With deepest respect and admiration, we pay homage and tribute to John William "J. W." Thompson, and we pause in silent reverence for his soul.

WHEREAS, J. W. Thompson was born on September 11, 1927, a native of Fancy Farm, Graves County, Kentucky, and he traversed these earthly bounds on January 25, 2003; and

WHEREAS, J. W. Thompson was the loving son of the late John Young Brown and Mary Alma Hayden Thompson, and he was also preceded in death by two sisters, Annie Buckman and Antonia "Toni" Stevens, and a brother, Robert "Sonny" Buckman; he was the devoted husband of 50 years to Mary Lou Mills Thompson; he was the adored father of a son, James Brown "Jimmy" Thompson, and a daughter, Mary Edna Thompson Samples; and he was the proud grandfather of six grandchildren and four great-grandchildren; and he also leaves behind a brother, Raymond Thompson, and two sisters, Mable Higdon and Henrietta Frank, all of Fancy Farm; and

WHEREAS, J. W. Thompson served his country with pride and distinction in the United States Navy "Seabees," during World War II; and he was a member of the Disabled American Veterans and a lifetime member of the American Legion; and

WHEREAS, J. W. Thompson was an esteemed member of the Graves County community, where he was a devout member of St. Jerome Catholic Church; he was a successful business man and co-owned and operated Brown Thompson Meat Packing Plant; and

WHEREAS, J. W. Thompson was an active and involved citizen and he was past mayor of Fancy Farm; throughout the years, he coached girls' summer league softball, was the chairman of several Fancy Farm Picnics, helped create and was chief of the Fancy Farm Fire Department; and he also served as Grand Knight of the Knights of Columbus of Fancy Farm; and

WHEREAS, the passing of J. W. Thompson has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of John William "J. W." Thompson, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of John William "J. W." Thompson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Mary Lou Mills Thompson, 10521 Hwy. 80 W, Fancy Farm, Kentucky 42039.

There being no objection, **HR 76** was adopted.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 332, by Representatives Bruce and Comer: AN ACT relating to insurance rate filings.

HB 333, by Representative Ballard: AN ACT relating to vital statistics.

HB 334, by Representative Damron: AN ACT relating to the Kentucky Military Museum.

HB 335, by Representative Pasley: AN ACT relating to solid waste as a fuel for generating electricity.

HB 336, by Representative Edmonds: AN ACT relating to county clerks and making an appropriation therefor.

HB 337, by Representatives Nunn and Hoover: AN ACT relating to public contracts.

HB 338, by Representative Dw. Butler: AN ACT relating to consumer protection.

HB 339, by Representatives Jenkins and Nesler: AN ACT relating to workers' compensation.

HB 340, by Representatives Fischer, S. Lee, Harmon, Baugh, Walton, and Marcotte: AN ACT relating to labor organizations.

HB 341, by Representative Moberly: AN ACT relating the qualifications of Kentucky Board of Education members.

HB 342, by Representative Westrom: AN ACT relating to consumer contracts.

HB 343, by Representatives Riner and Stumbo: AN ACT relating to trespassing while engaged in fish or wildlife activities.

HB 344, by Representatives Kerr and Simpson: AN ACT relating to crimes and punishments.

HB 345, by Representative Stein: AN ACT relating to traffic regulations.

HB 346, by Representatives Wilkey, Nesler, Higdon, Couch, Belcher, Damron, Adkins, Hall, Napier, Rand, Ford, Montell, and McKee: AN ACT relating to sales tax.

HB 347, by Representative Stein: AN ACT relating to driving history records.

HB 348, by Representative Thomas: AN ACT relating to the control of animals.

HB 349, by Representative Richards: AN ACT relating to taxation.

HB 350, by Representatives Meeks, L. Clark, P. Clark, Jenkins, Horlander, and Marizan: AN ACT relating to voting.

HB 351, by Representatives Meeks, Burch, Wayne, L. Clark, P. Clark, Marzian, and Jenkins: AN ACT relating to manufacturers and wholesalers of prescription drugs.

HJR 102, by Representatives A. Arnold and Westrom: A JOINT RESOLUTION authorizing Mark Herres to bring a civil action against the Commonwealth and appropriate state agencies.

HCR 103, by Representative Denham: A CONCURRENT RESOLUTION urging the National Highway Traffic Safety Administration to undertake a comprehensive study on the effects of wireless phone use on driving performance.

HJR 104, by Representative Denham: A JOINT RESOLUTION mandating the Transportation Cabinet to take various actions regarding agritourism signs.

HR 105, by Representatives Graham, Palumbo, Hall, and T. Thompson: A RESOLUTION declaring September 21, 2003, to be Myositis Awareness Day.

HCR 106, by Representative Thomas: A CONCURRENT RESOLUTION confirming the appointment of Vickie Yates Brown to the Kentucky Agricultural Development Board.

HR 107, by Representative Riggs: A RESOLUTION relating to homeland security funding.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HB 158, 106, 197, HCR 21**

Judiciary: **HB 31, 39, 151, 190, 207, 247, 98**

Labor and Industry: **HB 115, 171, 41, 221, 228, 241, 321**

Tourism Development and Energy: **HR 51**

State Government: **HB 4, 6, 24, 42, 61, 95, 177, 186, 211, 216, 236, 238, HCR 4, HCR 46**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 21, HB 52,** with Committee Substitute attached thereto, **HB 67, HB 72, HB 145,** with Committee Substitute attached thereto, and **HB 168,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 21, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, the multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

- (a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term; ***and***
- (b) The aggregate of consecutive definite terms shall not exceed one (1) year; and
- (c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed.~~[In no event shall the aggregate of consecutive indeterminate terms exceed seventy (70) years.]~~

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve unless the sentence is required by subsection (3) of this section or KRS 533.060 to run consecutively.

(3) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. The sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(4) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, the sentence imposed for that offense may, upon order of the trial court, be served in that institution. The person may be transferred to another institution pursuant to administrative regulations of the Department of Corrections.

HB 52, AN ACT relating to bail.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.520 is amended to read as follows:

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the court determines in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond:

 (a) With sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant, and his financial and employment circumstances; or

 (b) With the 10% deposit as provided in KRS 431.530; or

 (c) With the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in KRS 431.535;

(4) If the person's record indicates a history of controlled substance or alcohol abuse, order the person to submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. The Administrative Office of the Courts shall establish pilot projects to implement the provisions of this subsection;

(5) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;

(6) A court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued immediately upon any such violation;

(7) A person for whom conditions of release are imposed and who after twenty-four (24) hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition;

(8) If at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may: (a) order the arrest of the defendant; (b) enter an order requiring the defendant, his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed; or (c) both. A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and ***except as provided in subsection (9) of this section,*** enter a judgment for the Commonwealth against the defendant and his surety or sureties for

the amount of the bail bond or any portion thereof and cost of the proceedings.

(9) When bail is forfeited pursuant to subsection (8) of this section and there is an identified victim of the crime who has suffered death, serious physical injury, physical injury, or property damage as a result of the crime, the court revoking the bail may in lieu of payment to the Commonwealth order that any portion or all of the bail which has been forfeited be applied to the economic damage suffered by the victim of the crime. In the event that a payment to a named victim is made pursuant to this section, the court shall direct the Circuit Clerk to make the payment to the named victim of the crime and to make appropriate notification to the State Treasurer and the Administrative Office of the Courts as to the disposition of the funds. Any funds paid pursuant to this section shall be deducted from any payment which may be made by the Crime Victim's Compensation Board or which may be ordered as restitution to the victim to whom the payment has been made.

Section 2. KRS 431.531 is amended to read as follows:

(1) Each Circuit Court clerk, shall on the first day of each month, send to the Finance and Administration Cabinet~~[,]~~ a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month pursuant to KRS 431.530(3) and shall, with such statements, send to the State Treasury the amount so collected for deposit to the credit of the general fund.

(2) The Circuit Court clerk shall send to the State Treasury for credit to the general fund all balances from fees collected pursuant to KRS 431.530.

(3) The Administrative Office of the Courts shall certify to the Finance and Administration Cabinet on an annual basis that all funds collected have been duly reported by the circuit clerk in accordance with KRS 30A.120.

(4) The Administrative Office of the Courts shall cause to be published an annual audit of the funds collected pursuant to KRS 30A.120 no later than December 1 for the preceding fiscal year receipts.

(5) Each Circuit Court clerk shall, at the time specified in subsection (1) of this section, report to the State Treasurer and the Administrative Office of the Courts the amount of funds disbursed pursuant to subsection (8) of Section 1 of this Act.

The Committee Substitute to **HB 52** is as follows:

HB 52, AN ACT relating to bail.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.520 is amended to read as follows:

Any person charged with an offense shall be ordered released by a court of competent jurisdiction pending trial on his personal recognizance or upon the execution of an unsecured bail bond in an amount set by the court or as fixed by the Supreme Court as provided by KRS 431.540, unless the court determines in the exercise of its discretion that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the court shall, either in lieu of or in addition to the above methods of release, impose any of the following conditions of release:

(1) Place the person in the custody of a designated person or organization agreeing to supervise him;

(2) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) Require the execution of a bail bond:

  (a) With sufficient personal surety or sureties acceptable to the court; in determining the sufficiency of such surety, or sureties, the court shall consider his character, his place of residence, his relationship with the defendant, and his financial and employment circumstances; or

  (b) With the 10% deposit as provided in KRS 431.530; or

  (c) With the deposit of cash equal to the amount of the bond or in lieu thereof acceptable security as provided in KRS 431.535;

(4) If the person's record indicates a history of controlled substance or alcohol abuse, order the person to submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court with the fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. If the person is declared indigent, the testing fee may be waived by the court. The Administrative Office of the Courts shall establish pilot projects to implement the provisions of this subsection;

(5) Impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours;

(6) A court authorizing the release of a person pursuant to this section shall cause the issuance of an appropriate order containing a statement of the conditions imposed, if any, shall cause such person to be informed of the penalties applicable to violations of the conditions of his release, and shall cause him to be informed that a warrant for his arrest will be issued

immediately upon any such violation;

(7) A person for whom conditions of release are imposed and who after twenty-four (24) hours from the time of the imposition of said conditions continues to be detained as a result of his inability to meet the conditions of release shall, upon written application or upon the court's own motion, be entitled to have the conditions reviewed by the court which imposed them. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon written application or upon the court's own motion, be entitled to a review by the court which imposed the condition;

(8) If at any time following release of a defendant and before he is required to appear for trial, the court is advised of a material change in the defendant's circumstances or that he has not complied with all conditions imposed upon his release, the court having jurisdiction may: (a) order the arrest of the defendant; (b) enter an order requiring the defendant, his surety or sureties to appear and show cause why the bail bond should not be forfeited or the conditions of his release be changed; or (c) both. A copy of said order shall be served upon the defendant, his surety or sureties. If the defendant fails to appear before the court as ordered or if, after hearing, the court finds the conditions of release have not been complied with, the court may change the conditions imposed or forfeit the bail bond or any portion thereof and ***except as provided in subsection (9) of this section,*** enter a judgment for the Commonwealth against the defendant and his surety or sureties for the amount of the bail bond or any portion thereof and cost of the proceedings.

(9) When bail is forfeited pursuant to subsection (8) of this section and there is an identified victim of the crime who has suffered death, serious physical injury, physical injury, or property damage as a result of the crime, the court revoking the bail may in lieu of payment to the Commonwealth order that any portion or all of the bail which has been forfeited be applied to the economic damage suffered by the victim of the crime. If payment to a named victim is ordered pursuant to this section, the court shall direct the Circuit Clerk to make the payment to the named victim of the crime and to make appropriate notification to the State Treasurer and the Administrative Office of the Courts as to the disposition of the funds. The provisions of this subsection shall be inferior to a previously agreed lawful assignment of the bail. In the event that there is an assignment of the bail, only the amount remaining after the deduction of the lawful assignment shall be paid as otherwise provided in this subsection. Funds paid pursuant to this section shall be deducted from any payment which may be made by the Crime Victim's Compensation Board or which may be ordered as restitution to the victim to whom the payment has been made.

Section 2. KRS 431.531 is amended to read as follows:

(1) Each Circuit Court clerk~~[,]~~ shall***,*** on the first day of each month, send to the Finance and Administration Cabinet~~[,]~~ a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month pursuant to KRS 431.530(3) and shall, with such statements, send to the State Treasury the amount so collected for deposit to the credit of the general fund.

(2) The Circuit Court clerk shall send to the State Treasury for credit to the general fund all balances from fees collected pursuant to KRS 431.530.

(3) The Administrative Office of the Courts shall certify to the Finance and Administration Cabinet on an annual basis that all funds collected have been duly reported by the circuit clerk in accordance with KRS 30A.120.

(4) The Administrative Office of the Courts shall cause to be published an annual audit of the funds collected pursuant to KRS 30A.120 no later than December 1 for the preceding fiscal year receipts.

(5) Each Circuit Court clerk shall, at the time specified in subsection (1) of this section, report to the State Treasurer and the Administrative Office of the Courts the amount of funds disbursed pursuant to subsection (9) of Section 1 of this Act.

HB 67, AN ACT relating to carrying a concealed deadly weapon.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (5) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6), and (7) of this section.

(13) ***Except as provided in Section 3 of this Act,*** no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) Each concealed deadly weapon instructor or instructor trainer shall notify the Department of Criminal Justice Training not less than fourteen (14) days prior to the beginning of concealed deadly weapon applicant or concealed deadly weapon instructor training of the time, date, and location at which the class will be conducted. The department, upon the request of a firearms instructor trainer or certified firearms instructor, may permit a class to begin on less than fourteen (14) days' notice. The notice need not contain the names of the students. The notice may be made by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the application. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled but did not successfully complete the class, and which students enrolled and successfully completed the class which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than thirty (30) days after its receipt. Failure to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall be grounds for the Department of State Police to revoke the person's concealed deadly weapon license, following a hearing conducted pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that same class. The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of random inspections;
2. The results of those inspections;
3. The number of deficiencies noted;
4. The nature of the deficiencies noted;
5. If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
6. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
7. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
8. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of State Police as a matter of law;

(j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(k) The provisions of this section shall be deemed to be retroactive to March 1, 2002, and the following shall be in effect:

1. Action to eliminate the firearms instructor trainer program as done by emergency administrative regulation is rescinded, the program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
2. The Kentucky State Police may revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted pursuant to KRS Chapter 13B. Any action taken by the Kentucky State Police, other than revoking a permit for voluntary admission of nonreceipt of training or receipt of insufficient training to revoke a concealed deadly weapon license of a person suspected of nonreceipt of training or receipt of insufficient training, between March 1, 2002, and July 15, 2002, is suspended until the conduct of a KRS Chapter 13B hearing after July 15, 2002; and
3. Any person who has received a training affidavit requiring the person to verify training conducted during a firearms instructor course or applicant course from the Department of Criminal Justice Training between March 1, 2002, and July 15, 2002, shall have the time to respond to the training affidavit extended to August 1, 2002. The department shall notify each person who has not, as of July 15, 2002, returned his or her training affidavit of the extension of time to file the affidavit.

Section 2. KRS 237.115 is amended to read as follows:

(1) ***Except as provided in Section 3 of this Act,*** nothing contained in KRS 237.110 shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban-county, or charter county government to prohibit the carrying of concealed deadly weapons by licensees in that portion of a building actually owned, leased, or occupied by that unit of government.

(2) The legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.

(3) Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

Section 3. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(5) ***(a)*** The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without ***any*** limitation ***other than as provided in this subsection***:

1.[~~(a)~~] A Commonwealth's attorney or assistant Commonwealth's attorney;

2.[~~(b)~~] A county attorney or assistant county attorney;

3.[~~(c)~~] A justice or judge of the Court of Justice; and

4.[~~(d)~~] A retired or senior status justice or judge of the Court of Justice.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission.

(c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of State Police.

(6) ***(a) Except provided in this subsection,*** the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:

1.[~~(a)~~] An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404

when expressly authorized to do so by the unit of government employing the officer;

2.[~~(b)~~] An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; *and*

3.[~~(c)~~] The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed*.*[~~;~~]

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission.

(7) *(a)* A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission.

(8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer, regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(9) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

HB 72, AN ACT relating to the small claims division of the District Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.230 is amended to read as follows:

(1) The small claims division shall have jurisdiction, concurrent with that of the District Court, in all civil actions, other than libel, slander, alienation of affections, malicious prosecution and abuse of process actions, when the amount of money or damages or the value of the personal property claimed does not exceed *two thousand five hundred dollars ($2,500)*[~~one thousand five hundred dollars ($1,500)~~] exclusive of interest and costs.

(2) The division may also be used in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of *two thousand five hundred dollars ($2,500)*[~~one thousand five hundred dollars ($1,500)~~] exclusive of interest and costs.

(3) The division shall have authority to grant appropriate relief, except no prejudgment actions for attachment, garnishment, replevin or other provisional remedy may be filed in the division.

Section 2. KRS 24A.290 is amended to read as follows:

The defendant may file with the clerk a counterclaim against the plaintiff in an amount not in excess of *two thousand five hundred dollars ($2,500)*[~~fifteen hundred dollars ($1,500)~~] exclusive of interest and costs, if the counterclaim arose out of the same transaction or occurrence that is the subject matter of the plaintiff's claim, and if the counterclaim does not require for its adjudication the presence of third parties over whom the division cannot acquire jurisdiction. Any counterclaim shall be filed with the clerk, and a copy delivered to the plaintiff at least five (5) days prior to the time of the hearing. If the defendant's counterclaim is in excess of the jurisdictional limits of the division, then the provisions of KRS 24A.310(1) shall apply.

Section 3. KRS 24A.250 is amended to read as follows:

(1) No party shall file more than *thirty-five (35)*[~~twenty-five (25)~~] claims in any one (1) calendar year in the small claims division of any District Court in the Commonwealth. Any business engaged in trade or commerce shall be entitled to the maximum number of claims allowed under this section for each established location in the district that has been engaged in

trade or commerce for at least six (6) months.

(2) Any party who files a claim in the division shall sign an affidavit with the clerk at the time of filing the claim stating that he has not brought more than the maximum number of claims allowed under subsection (1) of this section.

(3) If any party files a claim in excess of the maximum number of claims allowed, that claim shall be dismissed without prejudice at the cost of the plaintiff.

(4) The limitation on the number of claims and the other requirements of this section shall not apply to claims brought by city, county, or urban-county governments.

HB 145, AN ACT relating to adoption of the Uniform Child Custody Jurisdiction and Enforcement Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

ARTICLE 1.

GENERAL PROVISIONS

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 41 of this Act:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision;

(2) "Child" means an individual who has not attained eighteen (18) years of age;

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes permanent, temporary, initial, and modification orders. The term does not include an order relating to child support or other monetary obligation of an individual;

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Article 3 of this Act;

(5) "Commencement" means the filing of the first pleading in a proceeding;

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination;

(7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period;

(8) "Initial determination" means the first child custody determination concerning a particular child;

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under Sections 1 to 41 of this Act;

(10) "Issuing state" means the state in which a child custody determination is made;

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination;

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;

(13) "Person acting as a parent" means a person, other than a parent, who:

  (a) Has physical custody of the child or has had physical custody for a period of six (6) consecutive months, including any temporary absence, within one (1) year immediately before the commencement of a child custody proceeding; and

  (b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state;

(14) "Physical custody" means the physical care and supervision of a child;

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state; and

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 41 of this Act shall not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

SECTION 3. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. Section 1901 et seq., is not subject to Sections 1 to 41 of this Act to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as if it were a State of the United States for the purpose of applying Articles 1 and 2 of this Act.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of Sections 1 to 41 of this Act shall be recognized and enforced under Article 3 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Articles 1 and 2 of this Act.

(2) Except as otherwise provided in subsection (3) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of Sections 1 to 41 of this Act shall be recognized and enforced under Article 3 of this Act.

(3) A court of this state shall not apply Sections 1 to 41 of this Act if the child custody law of a foreign country violates fundamental principles of human rights.

SECTION 5. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody determination made by a court of this state that had jurisdiction under Sections 1 to 41 of this Act binds all persons who:

  (a) Have been served in accordance with the laws of this state; or

  (b) Have been notified in accordance with Section 7 of this Act, or

  (c) Have submitted to the jurisdiction of the court; and

  (d) Have been given an opportunity to be heard.

(2) When a person is bound by a child custody determination under subsection (1) of this section, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

SECTION 6. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If a question of existence or exercise of jurisdiction under Sections 1 to 41 of this Act is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

SECTION 7. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Notice required for the exercise of jurisdiction when a person is outside this state shall be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(2) Proof of service shall be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(3) Notice shall not be required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3) The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under Sections 1 to 41 of this Act committed by an individual while present in this state.

SECTION 9. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may communicate with a court in another state concerning a proceeding arising under Sections 1 to 41 of this Act.

(2) The court shall allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given an opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3) of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.

(5) As used in this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

SECTION 10. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of a witness located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in this state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may request the appropriate court of another state to:

(a) Hold an evidentiary hearing;

(b) Order a person to produce or give evidence pursuant to procedures of that state;

(c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; or

(e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section shall be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen (18) years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

ARTICLE 2.

JURISDICTION

SECTION 12. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state shall have jurisdiction to make an initial child custody determination only if:

(a) 1. This state is the home state of the child on the date of the commencement of the proceeding; or

2. This state was the home state of the child within six (6) months before the commencement of the proceeding, the child is absent from this state, and a parent or person acting as a parent continues to live in this state; or

(b) A court of another state does not have jurisdiction under paragraph (a) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under Section 18 or 19 of this Act; and

1. The child and the child's parents, or the child and at least one (1) parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

2. Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships; or

(c) All courts having jurisdiction under paragraph (a) or (b) or this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under Section 18 or 19 of this Act; or

(d) No court of any other state would have jurisdiction under the criteria specified in paragraph (a), (b), or (c) of this subsection.

(2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

SECTION 13. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state which has made a child custody determination consistent with Section 12 or 14 of this Act has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that the child and the child's parents or the child and any person acting as a parent do not have a significant connection with this state, and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parents, and any other person acting as a parent do not presently reside in this state.

(2) A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under Section 12.

SECTION 14. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Section 15 of this Act, a court of this state shall not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under subsection (1)(a) or (1)(b) of Section 12 of this Act and:

(1) The court of the other state determines that it no longer has exclusive, continuing jurisdiction under Section 13 of this Act or that a court of this state would be a more convenient forum under Section 18 of this Act; or

(2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

SECTION 15. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state has temporary emergency jurisdiction if:

(a) The child is present in this state and the child has been abandoned; or

(b) It is necessary in an emergency to protect the child, because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2) If there is no previous child custody determination that is entitled to enforcement under Sections 1 to 41 of this Act and a child custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, a child custody determination made under this section becomes a final determination if it so provides, and this state becomes the home state of the child.

(3) If there is a previous child custody determination that is entitled to enforcement under Sections 1 to 41 of this Act, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, any order issued by a court of this state under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections 12, 13, and 14 of this Act. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to Sections 12, 13, and 14 of this Act, upon being informed that a child custody proceeding has been commenced in, or a child custody determination had been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

SECTION 16. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Before a child custody determination is made under Sections 1 to 41 of this Act, notice and an opportunity to be heard in accordance with the standards of Section 7 of this Act shall be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(2) Sections 1 to 41 of this Act do not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under Sections 1 to 41 of this Act are governed by the law of this state as in child custody proceedings between residents of this state.

SECTION 17. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state shall not exercise jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with Sections 1 to 41 of this Act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under Section 18 of this Act.

(2) Except as otherwise provided in Section 15 of this Act, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 20 of this Act. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with Sections 1 to 41 of this Act, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with Sections 1 to 41 of this Act does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

- *(a) Stay the proceeding for modification pending the entry of an order of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;*
- *(b) Enjoin the parties from continuing with the proceeding for enforcement; or*
- *(c) Proceed with the modification under conditions it considers appropriate.*

SECTION 18. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state which has jurisdiction under Sections 1 to 41 of this Act to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

- *(a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;*
- *(b) The length of time the child has resided outside this state;*
- *(c) The distance between the court in this state and the court in the state that would assume jurisdiction;*
- *(d) The relative financial circumstances of the parties;*
- *(e) Any agreement of the parties as to which state should assume jurisdiction;*
- *(f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;*
- *(g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and*
- *(h) The familiarity of the court of each state with the facts and issues in the pending litigation.*

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise its jurisdiction under Sections 1 to 41 of this Act if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

SECTION 19. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, or by other law of this state, if a court of this state has jurisdiction under Sections 1 to 41 of this Act because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

- *(a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;*
- *(b) A court of the state otherwise having jurisdiction under Sections 12, 13, and 14 of this Act determines that state is a more appropriate forum under Section 18 of this Act; or*
- *(c) No court of any other state would have jurisdiction under the criteria specified in Sections 12, 13, and 14 of this Act.*

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) of this section, that court may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections 12, 13, and 14 of this Act.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, that court shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than Sections 1 to 41 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five (5) years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

- *(a) Has participated as a party, witness, or in any other capacity in any other proceeding concerning the custody of, or visitation with, the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;*
- *(b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and*
- *(c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.*

(2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(3) If the declaration as to any of the items described in subsection (1) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to the details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information shall be sealed and shall not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

SECTION 21. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to Section 7 of this Act include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(3) The court may enter any order necessary to ensure the safety of the child and of any person ordered to appear under this section.

(4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

ARTICLE 3.

ENFORCEMENT

SECTION 22. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

As used in this article, unless the context otherwise requires:

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination; and

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of

a child custody determination.

SECTION 23. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Under this article, a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

SECTION 24. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if:

(a) The latter court exercised jurisdiction in substantial conformity with Sections 1 to 41 of this Act; or

(b) 1. The determination was made under factual circumstances meeting the jurisdictional standards of Sections 1 to 41 of this Act; and

2. The determination has not been modified in accordance with Sections 1 to 41 of this Act.

(2) A court of this state may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

SECTION 25. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) A visitation schedule made by a court of another state; or

(b) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(2) If a court of this state makes an order under subsection (1)(b) of this section, that court shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Article 2 of this Act. The order shall remain in effect until an order is obtained from the other court or the period expires.

SECTION 26. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to a court with jurisdiction in this state:

(a) A letter or other document requesting registration;

(b) Two (2) copies, including one (1) certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(c) Except as otherwise provided in Section 20 of this Act, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1) of this section, the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one (1) copy of any accompanying documents and information, regardless of their form; and

(b) Serve notice upon the persons named pursuant to subsection (1)(c) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by subsection (2)(b) of this section shall state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination shall be requested within twenty (20) days after service of notice; and

(c) Failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered order shall request a hearing within twenty (20) days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction under Article 2 of this Act;

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this Act; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act in the proceedings before the court that issued the order for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law, and the person requesting registration and all persons served shall be notified of the confirmation.

(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

SECTION 27. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but shall not modify, except in accordance with Article 2 of this Act, a registered child custody determination of a court of another state.

SECTION 28. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If a proceeding for enforcement under this article is commenced in a court of this state and that court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Article 2 of this Act, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

SECTION 29. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A petition under this article shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination shall state:

(a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision shall be enforced under Sections 1 to 41 of this Act and if so, identify the court, the case number, and the nature of the proceeding;

(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, or adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(d) The present physical address of the child and the respondent, if known;

(e) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and if so, the relief sought; and

(f) If the child custody determination has been registered and confirmed under Section 26 of this Act, the date and place of registration.

(3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing shall be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(4) An order issued under subsection (3) of this section shall state the time and place of the hearing and advise the respondent that at the hearing: the court will order that the petitioner may take immediate physical custody of the child; the court will order the payment of fees, costs, and expenses under Section 33 of this Act; and the court may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) The child custody determination has not been registered and confirmed under Section 26 of this Act and that:

1. The issuing court did not have jurisdiction under Article 2 of this Act;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this Act; or

3. The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under Section 26 of this Act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this Act.

SECTION 30. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Section 32 of this Act, the petition and order shall be served by any method authorized by the law of this state upon respondent and any person who has physical custody of the child.

SECTION 31. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Unless the court issues a temporary emergency order pursuant to Section 15 of this Act, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a) The child custody determination has not been registered and confirmed under Section 26 of this Act and that:

1. The issuing court did not have jurisdiction under Article 2 of this Act;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this Act; or

3. The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under Section 26 of this Act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this Act.

(2) The court shall award the fees, costs, and expenses authorized under Section 33 of this Act and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child shall not be invoked in a proceeding under this article.

SECTION 32. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.

(2) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, the court may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant shall include the statements required by subsection (2) of Section 29 of this Act.

(3) A warrant to take physical custody of a child shall:

(a) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(b) Direct law enforcement officers to take physical custody of the child immediately; and

(c) Provide for the placement of the child pending final relief.

(4) The respondent shall be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds, on the basis of the testimony of the petitioner or other witness, that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, that court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

SECTION 33. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court shall not assess fees, costs, or expenses against a state unless authorized by law other than Sections 1 to 41 of this Act.

SECTION 34. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A court of this state shall accord full faith and credit to an order issued by another state and consistent with Sections 1 to 41 of this Act which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this Act.

SECTION 35. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A party may move for an expedited appeal from a final order in a proceeding under this article. Unless the court enters a temporary emergency order under Section 15 of this Act, the enforcing court shall not stay an order enforcing a child custody determination pending appeal.

SECTION 36. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a case arising under Sections 1 to 41 of this Act or involving the Hague Convention on the Civil Aspects of International Child Abduction, the county attorney or other appropriate public official may take any lawful action, including resort to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(a) An existing child custody determination;

(b) A request to do so from a court in a pending child custody proceeding;

(c) A reasonable belief that a criminal statute has been violated; or

(d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A county attorney or other appropriate public official acting under this section acts on behalf of the court and shall not represent any party.

SECTION 37. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

At the request of a county attorney or other appropriate public official acting under Section 36 of this Act, a peace officer may take any lawful action reasonably necessary to locate a child or a party and assist a county attorney or other appropriate public official with responsibilities under Section 36 of this Act.

SECTION 38. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and peace officers under Section 36 or 37 of this Act.

ARTICLE 4.

MISCELLANEOUS PROVISIONS

SECTION 39. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In applying and construing Sections 1 to 41 of this Act, the Uniform Child Custody Jurisdiction and Enforcement Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 40. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before the effective date of Sections 1 to 41 of this Act is governed by the law in effect at the time the motion or other request was made.

SECTION 41. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 41 of this Act may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

Section 42. KRS 403.270 is amended to read as follows:

(1) (a) As used in this chapter and KRS 405.020, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Community Based Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.

(b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and KRS 403.280, 403.340, 403.350, *Section 12 of this Act*~~[403.420]~~, and 405.020.

(2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. The court shall consider all relevant factors including:

(a) The wishes of the child's parent or parents, and any de facto custodian, as to his custody;

(b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community;

(e) The mental and physical health of all individuals involved;

(f) Information, records, and evidence of domestic violence as defined in KRS 403.720;

(g) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;

(h) The intent of the parent or parents in placing the child with a de facto custodian; and

(i) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school.

(3) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.

(4) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.

(5) The court may grant joint custody to the child's parents, or to the child's parents and a de facto custodian, if it is in the best interest of the child.

(6) If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.

Section 43. KRS 403.280 is amended to read as follows:

(1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits.

(2) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.

(3) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under ***subsection (1)(a) or (1)(b) of Section 12 of this Act***[~~KRS 403.420(1)(a) or (b)~~] is dismissed, any temporary custody order is vacated.

(4) If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

Section 44. KRS 403.740 is amended to read as follows:

(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

(a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restraining the adverse party from committing further acts of domestic violence and abuse;

(c) Restraining the adverse party from disposing of or damaging any of the property of the parties;

(d) Directing the adverse party to vacate the residence shared by the parties to the action;

(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and ***Section 12 of this Act***[~~403.420~~], grant temporary custody; or

(f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.

(2) Except as provided in KRS 403.036, if the court issues an emergency protective order pursuant to subsection (1) of this section, the court shall not order or refer the parties to mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.735.

(3) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.

(4) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. An emergency protective order shall be reissued for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.

(5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the

full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

Section 45. KRS 403.750 is amended to read as follows:

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restrain the adverse party from committing further acts of domestic violence and abuse;

(c) Restrain the adverse party from disposing of or damaging any of the property of the parties;

(d) Direct the adverse party to vacate the residence shared by the parties to the action;

(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and ***Section 12 of this Act***~~[403.420]~~, award temporary custody;

(f) Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;

(g) Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785; or

(h) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.

(3) Upon proper filing of a motion, either party may seek to amend a domestic violence order.

(4) When temporary child support is granted under the provisions of this section, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.

(5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Section 46. The following KRS sections are repealed:

403.400 Purposes -- Construction.
403.410 Definitions.
403.420 Prerequisites to jurisdiction -- Commencement of proceeding.
403.430 Notice and opportunity to be heard.
403.440 Notice to persons outside state -- Exception.
403.450 Simultaneous proceedings in other states.
403.460 Inconvenient forum.
403.470 Jurisdiction declined by reason of conduct.
403.480 Information under oath to be submitted to court -- Continuing duty.
403.490 Joinder of parties.
403.500 Court appearance of parties and the child.
403.510 Binding force and res judicata effect of custody decree.
403.520 Recognition of out-of-state decree.
403.530 Modification of decree of another state.
403.540 Filing and enforcement of custody decree of another state.
403.550 Registry of out-of-state custody decrees and proceedings.
403.560 Certified copies of custody decree.
403.570 Taking testimony in another state.
403.580 Hearings and studies in another state -- Orders to appear.

403.590 Assistance to courts of other states.
403.600 Preservation of court records -- Use in other states.
403.610 Request for court records of another state.
403.620 International application.
403.630 Short title.

The Committee Substitute to **HB 145** is as follows:

HB 145, AN ACT relating to adoption of the Uniform Child Custody Jurisdiction and Enforcement Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

ARTICLE 1.

GENERAL PROVISIONS

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 41 of this Act:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision;

(2) "Child" means an individual who has not attained eighteen (18) years of age;

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes permanent, temporary, initial, and modification orders. The term does not include an order relating to child support or other monetary obligation of an individual;

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Article 3 of this Act;

(5) "Commencement" means the filing of the first pleading in a proceeding;

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination;

(7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period;

(8) "Initial determination" means the first child custody determination concerning a particular child;

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under Sections 1 to 41 of this Act;

(10) "Issuing state" means the state in which a child custody determination is made;

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination;

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six (6) consecutive months, including any temporary absence, within one (1) year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state;

(14) "Physical custody" means the physical care and supervision of a child;

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state; and

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 41 of this Act shall not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

SECTION 3. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. Section 1901 et seq., is not subject to Sections 1 to 41 of this Act to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as if it were a State of the United States for the purpose of applying Articles 1 and 2 of this Act.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of Sections 1 to 41 of this Act shall be recognized and enforced under Article 3 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Articles 1 and 2 of this Act.

(2) Except as otherwise provided in subsection (3) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of Sections 1 to 41 of this Act shall be recognized and enforced under Article 3 of this Act.

(3) A court of this state shall not apply Sections 1 to 41 of this Act if the child custody law of a foreign country violates fundamental principles of human rights.

SECTION 5. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody determination made by a court of this state that had jurisdiction under Sections 1 to 41 of this Act binds all persons who:

(a) Have been served in accordance with the laws of this state; or

(b) Have been notified in accordance with Section 7 of this Act, or

(c) Have submitted to the jurisdiction of the court; and

(d) Have been given an opportunity to be heard.

(2) When a person is bound by a child custody determination under subsection (1) of this section, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

SECTION 6. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If a question of existence or exercise of jurisdiction under Sections 1 to 41 of this Act is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

SECTION 7. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Notice required for the exercise of jurisdiction when a person is outside this state shall be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(2) Proof of service shall be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(3) Notice shall not be required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3) The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under Sections 1 to 41 of this Act committed by an individual while present in this state.

SECTION 9. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may communicate with a court in another state concerning a proceeding arising under Sections 1 to 41 of this Act.

(2) The court shall allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given an opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3) of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.

(5) As used in this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

SECTION 10. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of a witness located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in this state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may request the appropriate court of another state to:

  (a) Hold an evidentiary hearing;

  (b) Order a person to produce or give evidence pursuant to procedures of that state;

  (c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

  (d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; or

  (e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section shall be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen (18) years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

ARTICLE 2.

JURISDICTION

SECTION 12. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state shall have jurisdiction to make an initial child custody determination only if:

  (a) 1. This state is the home state of the child on the date of the commencement of the proceeding; or

    2. This state was the home state of the child within six (6) months before the commencement of the proceeding, the child is absent from this state, and a parent or person acting as a parent continues to live in this state; or

  (b) A court of another state does not have jurisdiction under paragraph (a) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under Section 18 or 19 of this Act; and

    1. The child and the child's parents, or the child and at least one (1) parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

    2. Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships; or

  (c) All courts having jurisdiction under paragraph (a) or (b) or this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under Section 18 or 19 of this Act; or

  (d) No court of any other state would have jurisdiction under the criteria specified in paragraph (a), (b), or (c) of this subsection.

(2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

SECTION 13. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state which has made a child custody determination consistent with Section 12 or 14 of this Act has exclusive, continuing jurisdiction over the determination until:

  (a) A court of this state determines that the child and the child's parents or the child and any person acting as a parent do not have a significant connection with this state, and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

  (b) A court of this state or a court of another state determines that the child, the child's parents, and any other person acting as a parent do not presently reside in this state.

(2) A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under Section 12.

SECTION 14. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Section 15 of this Act, a court of this state shall not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under subsection (1)(a) or (1)(b) of Section 12 of this Act and:

(1) The court of the other state determines that it no longer has exclusive, continuing jurisdiction under Section 13 of this Act or that a court of this state would be a more convenient forum under Section 18 of this Act; or

(2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

SECTION 15. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state has temporary emergency jurisdiction if:

  (a) The child is present in this state and the child has been abandoned; or

  (b) It is necessary in an emergency to protect the child, because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2) If there is no previous child custody determination that is entitled to enforcement under Sections 1 to 41 of this Act and a child custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, a child custody determination made under this section becomes a final determination if it so provides, and this state becomes the home state of the child.

(3) If there is a previous child custody determination that is entitled to enforcement under Sections 1 to 41 of this Act, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, any order issued by a court of this state under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections 12, 13, and 14 of this Act. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to Sections 12, 13, and 14 of this Act, upon being informed that a child custody proceeding has been commenced in, or a child custody determination had been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

SECTION 16. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Before a child custody determination is made under Sections 1 to 41 of this Act, notice and an opportunity to be heard in accordance with the standards of Section 7 of this Act shall be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(2) Sections 1 to 41 of this Act do not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under Sections 1 to 41 of this Act are governed by the law of this state as in child custody proceedings between residents of this state.

SECTION 17. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state shall not exercise jurisdiction under this article if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with Sections 1 to 41 of this Act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under Section 18 of this Act.

(2) Except as otherwise provided in Section 15 of this Act, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 20 of this Act. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with Sections 1 to 41 of this Act, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with Sections 1 to 41 of this Act does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

  (a) Stay the proceeding for modification pending the entry of an order of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

  (b) Enjoin the parties from continuing with the proceeding for enforcement; or

  (c) Proceed with the modification under conditions it considers appropriate.

SECTION 18. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state which has jurisdiction under Sections 1 to 41 of this Act to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

  (a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

  (b) The length of time the child has resided outside this state;

  (c) The distance between the court in this state and the court in the state that would assume jurisdiction;

  (d) The relative financial circumstances of the parties;

  (e) Any agreement of the parties as to which state should assume jurisdiction;

  (f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

  (g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

  (h) The familiarity of the court of each state with the facts and issues in the pending litigation.

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise its jurisdiction under Sections 1 to 41 of this Act if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

SECTION 19. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, or by other law of this state, if a court of this state has jurisdiction under Sections 1 to 41 of this Act because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

  (a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

  (b) A court of the state otherwise having jurisdiction under Sections 12, 13, and 14 of this Act determines that state is a more appropriate forum under Section 18 of this Act; or

  (c) No court of any other state would have jurisdiction under the criteria specified in Sections 12, 13, and 14 of this Act.

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) of this section, that court may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections 12, 13, and 14 of this Act.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, that court shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than Sections 1 to 41 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five (5) years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

(a) Has participated as a party, witness, or in any other capacity in any other proceeding concerning the custody of, or visitation with, the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(3) If the declaration as to any of the items described in subsection (1) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to the details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information shall be sealed and shall not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

SECTION 21. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to Section 7 of this Act include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(3) The court may enter any order necessary to ensure the safety of the child and of any person ordered to appear under this section.

(4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

ARTICLE 3.

ENFORCEMENT

SECTION 22. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

As used in this article, unless the context otherwise requires:

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination; and

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of

a child custody determination.

SECTION 23. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Under this article, a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

SECTION 24. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if:

(a) The latter court exercised jurisdiction in substantial conformity with Sections 1 to 41 of this Act; or

(b) 1. The determination was made under factual circumstances meeting the jurisdictional standards of Sections 1 to 41 of this Act; and

2. The determination has not been modified in accordance with Sections 1 to 41 of this Act.

(2) A court of this state may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The remedies provided in this article are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

SECTION 25. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) A visitation schedule made by a court of another state; or

(b) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(2) If a court of this state makes an order under subsection (1)(b) of this section, that court shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Article 2 of this Act. The order shall remain in effect until an order is obtained from the other court or the period expires.

SECTION 26. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to a court with jurisdiction in this state:

(a) A letter or other document requesting registration;

(b) Two (2) copies, including one (1) certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(c) Except as otherwise provided in Section 20 of this Act, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1) of this section, the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one (1) copy of any accompanying documents and information, regardless of their form; and

(b) Serve notice upon the persons named pursuant to subsection (1)(c) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by subsection (2)(b) of this section shall state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination shall be requested within twenty (20) days after service of notice; and

(c) Failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered order shall request a hearing within twenty (20) days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction under Article 2 of this Act;

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this Act; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act in the proceedings before the court that issued the order for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law, and the person requesting registration and all persons served shall be notified of the confirmation.

(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

SECTION 27. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but shall not modify, except in accordance with Article 2 of this Act, a registered child custody determination of a court of another state.

SECTION 28. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If a proceeding for enforcement under this article is commenced in a court of this state and that court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Article 2 of this Act, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

SECTION 29. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A petition under this article shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination shall state:

- *(a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;*
- *(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision shall be enforced under Sections 1 to 41 of this Act and if so, identify the court, the case number, and the nature of the proceeding;*
- *(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, or adoptions and, if so, identify the court, the case number, and the nature of the proceeding;*
- *(d) The present physical address of the child and the respondent, if known;*
- *(e) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and if so, the relief sought; and*
- *(f) If the child custody determination has been registered and confirmed under Section 26 of this Act, the date and place of registration.*

(3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing shall be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(4) An order issued under subsection (3) of this section shall state the time and place of the hearing and advise the respondent that at the hearing: the court will order that the petitioner may take immediate physical custody of the child; the court may order the payment of all or a portion of the fees, costs, and expenses under Section 33 of this Act; and the court may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

- *(a) The child custody determination has not been registered and confirmed under Section 26 of this Act and that:*
  - *1. The issuing court did not have jurisdiction under Article 2 of this Act;*
  - *2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this Act; or*
  - *3. The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act, in the proceedings before the court that issued the order for which enforcement is sought; or*
- *(b) The child custody determination for which enforcement is sought was registered and confirmed under Section 26 of this Act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this Act.*

SECTION 30. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Section 32 of this Act, the petition and order shall be served by any method authorized by the law of this state upon respondent and any person who has physical custody of the child.

SECTION 31. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Unless the court issues a temporary emergency order pursuant to Section 15 of this Act, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a) The child custody determination has not been registered and confirmed under Section 26 of this Act and that:

1. The issuing court did not have jurisdiction under Article 2 of this Act;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this Act; or

3. The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under Section 26 of this Act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 of this Act.

(2) The court may award all or a portion of the fees, costs, and expenses authorized under Section 33 of this Act and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

SECTION 32. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.

(2) If the court, upon the testimony of the petitioner or other witness, finds by clear and convincing evidence that the child is imminently likely to suffer serious physical harm or be removed from this state, the court may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant shall include the statements required by subsection (2) of Section 29 of this Act.

(3) A warrant to take physical custody of a child shall:

(a) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(b) Direct law enforcement officers to take physical custody of the child immediately; and

(c) Provide for the placement of the child pending final relief.

(4) The respondent shall be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds, on the basis of the testimony of the petitioner or other witness, that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, that court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions on the placement of a child to ensure the appearance of the child and the child's custodian.

SECTION 33. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) The court may award the prevailing party, including a state, all or a portion of the necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings.

(2) The court shall not assess fees, costs, or expenses against a state unless authorized by law other than Sections 1 to 41 of this Act.

SECTION 34. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A court of this state shall accord full faith and credit to an order issued by another state and consistent with Sections 1 to 41 of this Act which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Article 2 of this Act.

SECTION 35. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A party may move for an expedited appeal from a final order in a proceeding under this article. Unless the court enters a temporary emergency order under Section 15 of this Act, the enforcing court shall not stay an order enforcing a child custody determination pending appeal.

SECTION 36. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a case arising under Sections 1 to 41 of this Act or involving the Hague Convention on the Civil Aspects of

International Child Abduction, the county attorney or other appropriate public official may take any lawful action, including resort to a proceeding under this article or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(a) An existing child custody determination;

(b) A request to do so from a court in a pending child custody proceeding;

(c) A reasonable belief that a criminal statute has been violated; or

(d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A county attorney or other appropriate public official acting under this section acts on behalf of the court and shall not represent any party.

SECTION 37. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

At the request of a county attorney or the court acting under Section 36 of this Act, a peace officer may take any lawful action reasonably necessary to locate a child or a party and assist a county attorney or other appropriate public official with responsibilities under Section 36 of this Act.

SECTION 38. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and peace officers under Section 36 or 37 of this Act.

ARTICLE 4.

MISCELLANEOUS PROVISIONS

SECTION 39. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In applying and construing Sections 1 to 41 of this Act, the Uniform Child Custody Jurisdiction and Enforcement Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 40. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before the effective date of Sections 1 to 41 of this Act is governed by the law in effect at the time the motion or other request was made.

SECTION 41. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 41 of this Act may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

Section 42. KRS 403.270 is amended to read as follows:

(1) (a) As used in this chapter and KRS 405.020, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Community Based Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.

(b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and KRS 403.280, 403.340, 403.350, *Section 12 of this Act*~~[403.420]~~, and 405.020.

(2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. The court shall consider all relevant factors including:

(a) The wishes of the child's parent or parents, and any de facto custodian, as to his custody;

(b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community;

(e) The mental and physical health of all individuals involved;

(f) Information, records, and evidence of domestic violence as defined in KRS 403.720;

(g) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;

(h) The intent of the parent or parents in placing the child with a de facto custodian; and

(i) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school.

(3) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.

(4) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.

(5) The court may grant joint custody to the child's parents, or to the child's parents and a de facto custodian, if it is in the best interest of the child.

(6) If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.

Section 43. KRS 403.280 is amended to read as follows:

(1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits.

(2) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.

(3) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under ***subsection (1)(a) or (1)(b) of Section 12 of this Act***[~~KRS 403.420(1)(a) or (b)~~] is dismissed, any temporary custody order is vacated.

(4) If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

Section 44. KRS 403.740 is amended to read as follows:

(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

   (a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;

   (b) Restraining the adverse party from committing further acts of domestic violence and abuse;

   (c) Restraining the adverse party from disposing of or damaging any of the property of the parties;

   (d) Directing the adverse party to vacate the residence shared by the parties to the action;

   (e) Utilizing the criteria set forth in KRS 403.270, 403.320, and ***Section 12 of this Act***[~~403.420~~], grant temporary custody; or

   (f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.

(2) Except as provided in KRS 403.036, if the court issues an emergency protective order pursuant to subsection (1) of this section, the court shall not order or refer the parties to mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.735.

(3) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.

(4) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. An emergency protective order shall be reissued for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.

(5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

Section 45. KRS 403.750 is amended to read as follows:

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restrain the adverse party from committing further acts of domestic violence and abuse;

(c) Restrain the adverse party from disposing of or damaging any of the property of the parties;

(d) Direct the adverse party to vacate the residence shared by the parties to the action;

(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and ***Section 12 of this Act***[~~403.420~~], award temporary custody;

(f) Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;

(g) Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785; or

(h) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.

(3) Upon proper filing of a motion, either party may seek to amend a domestic violence order.

(4) When temporary child support is granted under the provisions of this section, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.

(5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Section 46. The following KRS sections are repealed:

403.400 Purposes -- Construction.
403.410 Definitions.
403.420 Prerequisites to jurisdiction -- Commencement of proceeding.
403.430 Notice and opportunity to be heard.
403.440 Notice to persons outside state -- Exception.
403.450 Simultaneous proceedings in other states.
403.460 Inconvenient forum.
403.470 Jurisdiction declined by reason of conduct.
403.480 Information under oath to be submitted to court -- Continuing duty.
403.490 Joinder of parties.
403.500 Court appearance of parties and the child.
403.510 Binding force and res judicata effect of custody decree.
403.520 Recognition of out-of-state decree.
403.530 Modification of decree of another state.
403.540 Filing and enforcement of custody decree of another state.
403.550 Registry of out-of-state custody decrees and proceedings.
403.560 Certified copies of custody decree.
403.570 Taking testimony in another state.
403.580 Hearings and studies in another state -- Orders to appear.
403.590 Assistance to courts of other states.
403.600 Preservation of court records -- Use in other states.
403.610 Request for court records of another state.
403.620 International application.
403.630 Short title.

HB 168, AN ACT relating to probate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.145 is amended to read as follows:

When any will is offered for probate, the court shall require a verified application to be filed by the person offering the same. *The*[~~Such~~] application shall state the residence of the testator at the time of his ***or her*** death and such other facts as may be necessary to establish the jurisdiction of the court, and the names, ages and post office addresses of the testator's surviving spouse and, if required by the court, heirs at law, or such as are known. An application for probate and for appointment as executor or administrator with the will annexed may be combined in one (1) application.

The Committee Substitute to **HB 168** is as follows:

HB 168, AN ACT relating to probate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.070 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, no guardian or conservator shall act until the guardian or conservator has been appointed by the proper District Court, and given bond to the Commonwealth of Kentucky with good surety, either corporate or personal, approved by the District Court to faithfully discharge the trust of guardian or conservator. The bond shall be carefully kept by the clerk of the District Court in a book to be provided for that purpose.

(2) A limited guardian shall be exempt from the requirements of subsection (1) of this section.

(3) *(a)* If the person or entity appointed by the District Court as guardian or conservator is a person or entity nominated pursuant to KRS 387.040, and the will of the parent making the nomination requests no surety on the bond of the guardian or conservator, no surety shall be required on the bond, unless the District Court deems it imprudent to dispense with surety because of a change of circumstances since the will was made or for other good cause.

(b) If the District Court directs that the assets of a ward's estate be deposited in a restricted account as set out in KRS 387.122, the guardian or conservator shall be exempt from giving surety on his or her bond.

(4) No master or other commissioner whose duty it is to settle the accounts of a guardian or conservator, nor judge or clerk of a court, or practicing attorney, shall be accepted as surety on the bond of a guardian or conservator.

The Committee Amendment No. 1 Title to **HB 168** is as follows:

By amending the title to read as follows: AN ACT relating to trusts and estates.

Motions, Petitions, and Communications

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 10, Representative Mobley

HB 17, Representative Mobley

HB 28, Representatives Draud and Simpson

HB 29, Representatives R. Adams, Ballard, Baugh, Bruce, Buckingham, Callahan, Damron, Draud, DeWeese, Edmonds, Farmer, Fischer, Gooch, Harper, Hoover, Kerr, Marcotte, Montell, Nelson, Rader, Riner, Reinhardt, Richards, Simpson, Stumbo, Turner, Walton, and Weaver.

HB 38, Representative Mobley

HB 40, Representatives Damron and J. Thompson

HB 46, Representative Mobley

HB 75, Representative Westrom

HB 77, Representative Sims

HB 78, Representatives Sims and T. Thompson

HB 80, Representative Crimm

HB 99, Representative Richards

HB 139, Representative Palumbo

HB 152, Representative Walton

HB 153, Representatives Baugh and Walton

HB 163, Representative Meeks

HB 174, Representatives P. Clark, Meeks, and Wayne

HB 180, Representatives P. Clark and Meeks

HB 196, Representative Graham

HB 223, Representative Hall

HB 226, Representative Embry

HB 242, Representative Burch

HB 244, Representative Simpson

HB 251, Representative Walton

HB 287, Representatives Baugh and Hall

HB 289, Representatives Brinkman, Crimm, Feeley, and Walton

HB 314, Representative Embry

HB 315, Representative Embry

HB 320, Representative Embry

HB 345, Representative Marzian

HB 346, Representative Vincent

HCR 56, Representative Callahan

HJR 3, Representative Nelson

HR 80, Representative Brinkman

The following members filed a request to have their names withdrawn as co-sponsors of a Bill:

HB 240, Representatives Bratcher and Geveden.

Announcements

The following meetings were announced:

Elections, Constitutional Amendments, and Intergovernmental Affairs Committee, Thursday, February 6, 2003, Room 125, 10 a.m.

Local Government Committee, Thursday, February 6, 2003, 8:30 a.m.

Transportation Committee, Thursday, February 6, 2003, 10 a.m.

Agriculture and Small Business, Thursday, February 6, 2003, Noon

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess until 7:00 p.m. for the Governor's address. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that floor privileges be granted to Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into a Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Chaplain Earl Bell, of the Development Center, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the flag.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky, The Honorable Paul E. Patton.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

President Williams, Speaker Richards, and members of the General Assembly, members of the Judiciary, and other constitutional officers, my fellow Kentuckians. I once again thank the people of Kentucky for selecting me to serve as their governor these past seven years. I thank the members of the Kentucky General Assembly for the privilege of working with you.

I've served in the best of times - and the worst of times. And now is the worst of times.

With the benefit of hindsight, it's now clear that, beginning in about July of 1994, the economy of the nation and Kentucky began to boom. State revenue increased dramatically in fiscal year 1995. In fact, state revenue for six consecutive years was abnormally high. Virtually every other state experienced this same phenomenon.

The boom is now over. Real revenue growth is practically non-existent. Most of our sister states are experiencing the same situation. The states are, as a whole, in the midst of the greatest fiscal crisis since World War II. In Kentucky, for the first time since 1954, revenue actually declined from one year to the next. We're well into our third year of historically slow growth. The prospects for recovery are dismal at best. There is no light at the end of the tunnel.

It is indeed our darkest hour – and it can be the greatest opportunity to gain on our sister states during my administration. My fundamental goal as Governor has been to set Kentucky on a path to achieving a quality of life and a standard of living above the national average by the year 2020. Because some states are allowing this nationwide fiscal crisis to take them backwards, those states which don't cut back on their commitments can make a quantum leap in their effort to gain competitive advantage. Kentucky has that opportunity - if we have the wisdom and the strength.

Yes, we have severe budget problems, but we're not alone. Forty-eight other states are experiencing, or have experienced budget shortfalls. Virginia has a 10 percent budget shortfall; Massachusetts' is 15 percent; California, 20 percent. The average nationwide is ten percent. Ours is about 6 percent.

How we and our sister states handle this crisis will determine where we'll be relative to each other economically and socially twenty years from now.

Some states have taken the easy road and cut education, social services and public protection programs; stopping progress and, in fact, going backwards.

A few states have rejected these cuts and increased taxes to keep their vital services functioning. What will Kentucky do? That's what you're assembled here in Frankfort to decide.

Before I get to our immediate problem, let me review for a moment our past.

While I've been governor, we have moved Kentucky forward. We saved the Kentucky Education Reform Act. We made new commitments to postsecondary education. We addressed adult education and early childhood development.

We improved the environment in the Commonwealth. We cut our welfare rolls in half. We created 180,000 new jobs. We've committed to rebuilding our farm economy and that of the coal-producing regions of the Commonwealth.

We've made Kentucky safer, making dramatic improvements in our juvenile justice system. We have better trained police officers, better-equipped State Police, and 5,401 new jail and prison beds with 900 more on the way.

We've cut the state payroll by over a thousand employees and we've made government more efficient by 572 million dollars through our Empower Kentucky initiative.

We put some of the excess revenue of the boom years into our Budget Reserve Trust Fund, about 280 million dollars and we had over 400 million dollars in reserve in other Dedicated Use funds.

We refunded 287 million dollars of taxes which had been collected and spent by previous administrations under laws which have been declared unconstitutional by the courts. We made 600 million dollars of cash investments in infrastructure that will improve the economy and the quality of life of Kentuckians in the years ahead. And we returned much of this excess revenue to our citizens as tax cuts; 26 different tax cuts. Over 2 billion dollars so far. Almost 500 million dollars in fiscal year 2004.

That's the reason that the percent of personal income Kentuckians are devoting to government has gone down 7 percent since I took office.

I'm proud of the fact that we've reduced the amount of our people's income that they're devoting to government; but I also realized that this is the genesis of our current problem.

Let me frame the fundamental issue of the debate that confronts us. Corporate support for state government is about 350 million dollars below what it should be compared to what it was in 1990.

We in Kentucky have historically had low corporate taxes, generally providing about 10 percent of the General Fund. That's what it was in 1990 when Corporate Kentucky lead the way for education reform.

By 2002 corporate support of the General Fund had decline to 5 percent, 50 percent lower than it was in 1990 – half as much. Individuals are now paying for 21 percent more of the General Fund than we were paying in 1990.

That shift in who's paying the cost of state services is the fundamental issue in this debate. This shift in relative tax burden brings up an even more fundamental question. Should corporations doing business in Kentucky and using the services of state government pay any taxes at all? If so, how much?

The fact is that large national and international businesses operating in Kentucky don't have to pay corporate taxes if they don't want to! All they have to do is to operate in Kentucky as a limited liability business!

Perhaps we should first define the term businesses. There are two fundamental types of business structures. One is businesses owned by one or more individuals who assume all the responsibility of gain or loss of the business and pay Individual Income taxes on the profit.

The other is limited liability businesses; one or more people investing to conduct business on a scale that they are not willing to do as individuals if it means risking all they have. To make these kinds of investments, their liability for losses must in some way be limited. The corporation has historically been the business structure used to achieve these ends. These type businesses have historically paid taxes to the governments that granted them limited liability protection and, of course, their owners also pay taxes on the income they receive as dividends. This issue of double taxation is at the center of the present debate.

There's lately emerged a new business entity, the Limited Liability Company, which is a partnership and isn't required to pay taxes directly. Its income is passed directly to its owners and the owners pay the taxes. This type business entity enjoys the limited liability protection of a corporation but avoids the burden of double taxation.

In 1994 Kentucky authorized limited liability companies. Eight years later, we have over 33,000 of these companies doing business in the Commonwealth. Most major corporations operating in Kentucky are conducting at least some of their business with limited liability companies. Their stockholders live all over the world. Only those stockholders who are legal Kentucky residents, pay Kentucky taxes on the corporate profits they receive as dividends. Typically Kentuckians would own less than 2 percent of a large, national corporation.

Therein lies the essence of the debate about corporate support for state government. Should corporations pay anything for services such as the education of their workforce; the protection of their property; the use of the state's infrastructure? Until recently, in Kentucky and all other states, the answer has been yes. Today, in Kentucky, that answer is, only if they want to.

If all the owners lived in Kentucky and paid Kentucky Individual Income Tax, this probably wouldn't be an issue. But what if the owners live in Tennessee? Or Florida? Or France? Shouldn't they pay something when they profit from our tax money?

The way I see it, unless the current laws are changed, there will be virtually no direct corporate support for state government in the very near future because I don't know too many businesses who are going to continue to pay taxes they don't legally have to pay. We need to decide, once and for all, should corporations operating in Kentucky under any organizational structure pay taxes. We need to make that decision now; in this session.

When making any decision of this nature, we need to look at what our neighbors are doing.

All our close neighbors have higher corporate taxes than Kentucky and some of them are making them even higher as they look for ways to deal with their budget shortfalls.

If we look at our neighbor to the south, we find that Tennessee, according to the United States' Census Bureau, gets 15.3 percent of its tax receipts from Corporate Income and License taxes. They also had an 8.2 percent budget gap and they raised taxes 933 million dollars, including an additional 127 million dollars on corporations, to solve their problem. And now I understand that the new governor of Tennessee is calling for more taxes.

Illinois gets 10.8 percent of its revenue directly from corporations. They also raised taxes 370 million dollars and still have a 592 million dollar budget shortfall.

Indiana gets 7.1 percent of its revenue as Corporate Income and License taxes. They raised taxes a billion dollars even though they're getting a quarter billion dollars from Kentuckians who like their riverboats.

Ohio gets 15.3 percent of its revenue directly from corporations. They raised taxes 797 million dollars including 216 million dollars from corporations.

I read just last week where Governor Taft was calling for more tax increases to plug another 720 million dollar budget gap for next year. In calling for that tax increase, Governor Taft said to a joint session of the Ohio legislature, "The actions I'm asking you to take will be painful, but the consequences of inaction are unacceptable." I make that same statement to the members of the Kentucky General Assembly.

Governor Huckabee of Arkansas said to a joint session of his legislature, "And if you deem that all new revenue sources, your proposals or mine, are dead on arrival, then you'll be saying that teacher pay increases are dead, scholarships are dead, medicine for the elderly is dead, that long (prison) sentences are dead, and that we'll have to have a massive early release of thousands of inmates from the system." He went on to say, "To be blunt, our problems aren't that simple and the answers aren't either."

Again, I echo that message to the Kentucky legislature and the people of the Commonwealth.

We in Kentucky have yet to permanently address our problem. That is the challenge presented to the Kentucky General Assembly. I hear your opposition to new taxes. I don't like to have to even talk about them myself. But do we know something that our neighbors don't know? Does someone in the General Assembly have a silver bullet I haven't found? If you do, share with me; and the people of Kentucky. Our administration solicits your advice.

We've dealt with this budget shortfall for over two years. Since November of 2001 we've managed shortfalls of 872 million dollars! We've made dramatic cuts in the administrative cost of state government. We've reduced payroll. We've reduced vehicles; we've cut travel. We've reduced the use of personal service contracts.

So far, there have been very few programmatic reductions. Our people have yet to feel the pain of their government not living up to its commitments; with the single exception of the consequences of an underfunded Corrections budget.

As I review my administration's handling of this crisis, I think we've done pretty well. I think our job is to keep our people from feeling the pain. But we can no longer shield our citizens from this crisis.

You adopted a very progressive budget for Fiscal Years 2001 and 2002 in the 2000 legislative session. But the budget shortfall for 2001 was 185 million dollars. We tightened our belts and absorbed that shortfall without cutting services. In 2002 the budget shortfall was 687 million dollars, 9.4 percent of the budget. I cut our postsecondary education and our Medicaid program two percent and all the rest of government 5 percent – but I didn't cut our elementary and secondary schools; the education of our children is too important.

In the 2002 session I proposed a continuation budget for this year and the next, based on a budget for last year which had already been cut 5 percent in every area of state services except education and Medicaid. That budget had no expansion of services, no real raises for our teachers or state employees, no operating increases to cover inflation. When rent went up, we told our agencies to reduce space. When utility bills went up, we told our managers to turn down the thermostat. Last December we announced other cost-saving measures which will save over 30 million dollars more without cutting services that affect the average Kentuckian. But we can no longer avoid the inevitable. We must now restore the 500 million dollars a year that we've returned to the people in tax cuts while I've been governor or; drastically cut services.

By the first of July, all our reserves will be gone. We'll be almost 400 million dollars short of what it takes to fund the 2004 budget I proposed last year. We'll need another 103 million dollars to prevent more cuts in Medicaid and to keep all our convicted felons behind bars until they've served their time.

If we're going to really restore the financial health of the Commonwealth, we'll need another 92 million dollars to rebuild our reserves and continue to invest 6 percent of our revenue in our schools and communities.

There's no doubt that you can take 400 million dollars out of the budget I proposed last year. There's no doubt you can force even more cuts in Medicaid. I don't see how you can refuse to fund our prisons. But you can certainly refuse to rebuild our Budget Reserve Trust Fund and stop our infrastructure investment program. There's no doubt that you can push a lot of the problems off on the next governor and the next General Assembly. There is no doubt that you can adjourn without addressing the problem. There is no doubt you can pass a fictitious budget. But you, I, or the people of Kentucky cannot escape the fact that we either restore the revenue lost when we cut taxes in 26 different ways or we reduce the teachers in our classrooms or increase college tuition's or cut more people off Medicaid or let more felons out of prison or reduce our services to neglected children or let the weeds grow in our state parks or let our infrastructure deteriorate; or lose a lot of dedicated state employees; or a combination of all of the above. Those are the choices we face.

I've made my choice. I've already experienced the trauma of releasing felons from prison before they've paid their debt to society. I've seen them go out the very next day and abuse the good people of Kentucky. I've faced the reality of depriving Kentuckians of essential health care.

I've been to the mountain of cutting the very heart and soul out of government; and I've returned sickened, saddened and resolute. I can stomach no more.

If that is to be the future of Kentucky, that future will be your legacy – not mine.

And so I propose to you tonight a budget which doesn't expand our government – but it does live up to our existing commitments.

And I propose to address one of the fundamental problems we face, the structure of our tax laws.

I propose to revise our tax code to make it more fair, to keep us competitive for economic expansion, to make our revenue stream more stable, to make it grow more closely with the growth of our society and to make it adequate to meet our current commitments.

I propose 17 specific changes which will close loopholes and raise some taxes and cut others. The net increase in state revenue will be 573 million dollars.

But the centerpiece of my proposal is to close the biggest loophole of all, the loophole that permits huge multi-national corporations to operate in Kentucky while paying practically no taxes to pay for the government services they use everyday.

I'm not here to criticize the businesses that make our economic prosperity possible. I'm here to criticize a corporate tax code that has become dysfunctional.

All I want to do is change the way we tax these corporate citizens to make it more fair to all our businesses.

In 2000, 37,000 corporations filed corporate tax returns in Kentucky. Two of them paid 10 percent of our Corporate Income Tax. Eleven of them paid 10 percent of our Corporate License Tax. That can't be fair.

These kinds of inequities are possible because we have a corporate tax code that has so many loopholes that it enables a corporate citizen to organize itself in ways so as to legally reduce its tax liability to practically nothing. Again, I want to emphasize that this is not a criticism of corporate Kentucky. Our large corporations have every obligation to their stockholders to pay only their legally binding tax obligations. The criticism is of us, the elected leaders of Kentucky who made this possible. We have created these loopholes. We have every reason to expect our corporate citizens to use them.

In 1990 we increased taxes by today's equivalent of one and a quarter billion dollars a year to pay for an educational program that we didn't know for sure would work. Surely we will increase taxes half that much to pay for it after we know it does work. For my part, I'm there. But the decision is not mine. The decision is yours, the 138 men and women elected by your peers to decide on their behalf, the future of Kentucky.

I realize that corporations, like individuals, pay a lot of different taxes like sales tax and property tax. As far as I know the relative amount of these taxes corporations pay hasn't changed. Tonight I will concentrate on those taxes that are paid only by corporations and those taxes paid only by individuals and point out how the distribution of the tax burden has shifted since 1990.

There aren't many loopholes in the Individual Income Tax laws that the average Kentuckian can take advantage of. Our corporate tax laws are full of loopholes.

Our present corporate tax system allocates a portion of a national corporation's total income to Kentucky based on three factors – payroll, sales and capital employed in Kentucky. My proposal uses these same three factors to determine a corporation's fair share of support for state government. It just applies them in a different way.

The present system is so full of loopholes, a corporation can almost wipe out its tax liability legally.

Closing those loopholes is the objective of replacing the Corporate Income Tax with the Business Activity Tax. This is based on a company's payroll and sales in Kentucky.

This tax will apply equally to every business operating in Kentucky which enjoys the protection of limited liability except professional partnership; doctors, lawyers, engineers, accountants and other professional services. It does not apply to sole proprietorships or general partnerships. This change is not intended to affect the tax burden of Kentuckians who own a business which passes its income through to its owners.

Any Business Activity Tax that's paid by a Subchapter S Corporation or by any company that passes its income directly through to its owners; that tax is taken as a direct credit on the Individual Income Tax of that owner. Now I want you to listen to that statement very clearly. Any Business Activity Tax paid by a pass-through company is deducted dollar for dollar from the Individual Income Tax owed by the owner. Most Kentucky companies owned by Kentuckians are pass-through companies. This change should have no effect on a Kentucky-owned business that's already paying its fair share of the cost of state government.

I also propose to increase the Corporate License Tax from 21 to 41 cents per $100 of capital employed in Kentucky and extend it to apply to these same businesses. What we're trying to do is create a level playing field where all businesses, large or small, are playing by the same rules, paying the same taxes, and helping to keep our education programs improving. We're also maintaining the ability of all Kentucky business owners who are presently avoiding double taxation by the use of pass-through companies to maintain that savings.

In 1990, corporate leaders like John Hall, David Jones, and Oz Nelson led the businesses of Kentucky as they came to you and said "give us better schools – raise our taxes to pay for them." And you responded. Since 1990 the taxes that individuals pay have gone up 123 percent! The taxes corporations pay have gone down 9 percent.

And let me emphasize one more time, I am not criticizing our business community. I'm criticizing our corporate tax code which is fundamentally flawed.

The limited liability company loophole was created in 1994. Few people realized what the changes did. Some corporate executives are just now beginning to understand how to reorganize a company and virtually eliminate state taxes. That's what's causing the stampede to the Secretary of State's Office to file the papers to establish limited liability companies; the vehicles to tax-free heaven. I know this subject is complicated. It'll require a complicated solution. If you want to know more, it's all right here in this "hot off the press" document, *Securing Kentucky's Future*.

We've sent a copy to every legislator. It's available on the web to anyone who's interested. It documents in detail my proposal and my reasoning. I urge every Kentuckian to read it.

It's my responsibility to execute the programs the legislature has mandated so long as we have the money in the bank; and we still have money in the bank. It'll run out about July. I will then have no choice except to make cuts that will upset people more than the early release of felons. Then you and the people of Kentucky will see what an emasculated government really looks like. I already know.

You must now decide. If we raise no taxes, we'll put Kentucky back a generation. If we raise taxes a little, it'll be like a narcotic; mask the pain but not cure the disease.

If we address the fundamental problem and restore the revenue we didn't need during the good economic times, we can move Kentucky forward during the next administration and beyond and surpass those other states whose political leadership is more interested in the next election than they are in the next generation.

I think I've proven that I understand how important businesses are to the people of Kentucky.

I would never do anything to hurt the business climate in the Commonwealth. That's why I won't support cutting education. Providing good schools is the single most important thing we can do to make Kentucky more business friendly.

The other side of this coin is to cut my budget to fit existing revenue. I am not going to participate in cutting government services anymore. We'll leave that up to the people who say we don't need more revenue. They must draft the budget with no new revenue.

The people have the right to see a budget with no new revenue. I know what it looks like and it's ugly. It's cruel. It'll destroy all the progress we've made these last seven years. I will not support it. I will oppose it. I will not put my name on it. It will be your budget.

I'm proposing a sound budget. A budget that funds our current commitments. A budget that restores our fiscal integrity, protects our bond rating and begins to rebuild our budget reserves. My budget will fully fund our commitment to Basic SEEK for next year at the level of 3,234 dollars for every student in average daily attendance in our schools; it will fully fund the current estimated cost of the Medicaid program with no more cuts beyond those we've already begun to initiate. And it'll fully fund our Corrections Department so there will be no more early release of felons.

And my budget will continue our policy of investing 6 percent of our income in our infrastructure; the framework around which our economy grows. I've said it before and I'll say it again. No matter how bad things get, we must continue to invest in the future, just like those who came before us. It's especially important to invest now because interest rates may never be lower. And if we stop growing our infrastructure, we'll stop growing our economy.

I heard the story of the farmer who decided to economize so he slowly reduced the feed to his mule; just a little bit less everyday. After a month his neighbor asked him how his economizing effort was going. "Well, it was going great," the farmer said. "I had him completely weaned from food and then the darn thing died!"

Well, that's what happens when a society stops investing. It's just about the same as eating your seed corn.

We have a simple choice. Pay now or pay later. Statesmen will step up to the plate and pay now. Politicians will make the people pay later.

Our colleges and universities are our future, so my budget will fund the new health services campus at the University of Louisville and the Biological Sciences Pharmaceutical Complex at the University of Kentucky. It'll fund the Business Technology Center at Eastern; the Old Science Building Renovation at Northern; the Student Center Restoration at Morehead; the Science Building Replacement at Murray; the Thompson Science Complex replacement at Western; and the renovation of Hathaway Hall at Kentucky State.

It'll fund new KCTCS buildings at Henderson and Madisonville and Ashland. It'll fulfill the promise of 100 million dollars made two years ago to our schools for new buildings, and promises another 100 million dollars for the next biennium; and it funds Bucks for Brains.

We must continue to grow our economy and have plenty of land set aside for businesses to locate and expand, so my budget will fund the new business park in the Purchase and one in Hopkinsville as well as finish the convention center there. It'll pay off the loan on the Glendale industrial sight in Hardin County and provide the Economic Development Cabinet the ED bonds they must have to keep our economy growing.

And it'll fund our 2020 rural water initiative and keep us on track to reach our goal of providing every Kentuckian with access to high quality water by the year 2020.

And it finishes the six new golf courses you authorized in 2000.

And it funds the new executive office building which will let future administrations get on with the job of restoring and preserving our beautiful State Capitol building.

And I support and urge you to support the judicial branch's efforts to construct the 23 new courthouses in rural Kentucky. We absolutely must continue this program to provide every court in the Commonwealth with state-of-the-art facilities.

And my budget recognizes the importance of our major urban areas to all Kentuckians. My budget begins the multipurpose activities center in Northern Kentucky and finishes Rupp Arena and keeps our Kentucky State Fairgrounds in the first tier of large convention centers in America!!!

My budget is a responsible budget; a humane budget; a budget that keeps our commitments.

Those who can't see my vision for Kentucky can have the ugly budget of no new taxes. If you can't see very far, ugly doesn't look too bad. If you can see to the horizon, you see a sunrise; you see the future.

To the people of Kentucky, I ask you to study my budget and the comprehensive tax reform needed to fund it. Don't greet the mention of increased taxes with a knee-jerk reaction. This Business Activity Tax, in all likelihood, won't affect your pocketbook one dime. It will most assuredly affect the schools in your communities, the social services of your neighbors, the safety of your streets. If you agree with me, call your state senator and state representative. They really want to know your views. All they're hearing from now are the uninformed or the selfish special interests that only care about today – and themselves.

The flat earth, no new taxers will scream cut spending, cut spending and then they'll scream don't let felons out of jail. But keeping criminals off the street is where we've increased spending 65 percent. Room for 5,401 new inmates; and 900 more beds on the way. That's one reason the crime rate in Kentucky has dropped 10 percent.

We've increased spending on Medicaid by 63 percent and now I've had to cut Medicaid 250 million dollars and the cut spenders are calling my office demanding that we not cut the reimbursement rates of their friends in the health care field.

We've increased spending on education 29 percent but our teachers' salaries have already dropped from 27th to 34th in the nation. And the cut spenders scream, don't cut education.

Since I've been governor, inflation has caused costs to go up 19 percent but the increased costs of all the rest of state government has increased by only 13 percent, only two thirds as much as the average increase in costs in our nation as a whole.

My friends, the politicians can demagogue new taxes. But they offer no solution. I have but ten more months to serve. I have but one more challenge to meet; - to turn over to my successor a state government that has a balanced state budget, a sound fiscal position, and the ability to meet its existing commitments. I can't do that by myself. I need your help; you here in the legislature and you out there in Kentucky.

For seven years, I've tried my best to do and advocate what was right for the long-term welfare of all the people, not the short-term gain of the special interests.

I have supported Labor when I thought Labor was right. I have opposed Labor when I thought Labor was wrong. The same goes for business.

I've tried to be the advocate for the people. That's the role I play tonight. I believe history will prove me right.

Goodnight, God bless you, and God bless America.

Representative Stumbo moved to dissolve the Joint Session. Agreed.

The Speaker resumed the Chair and called the House to order.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Thursday, February 6, 2003.

The motion that the House adjourn until 2 p.m., Thursday, February 6, 2003, was adopted by voice vote.

THURSDAY, FEBRUARY 6, 2003

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Charles Malory, Sunshine United Methodist Church, South Shore, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives De. Butler and Crenshaw.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Wednesday, February 5, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 352, by Representatives Horlander, A. Arnold, Gray, P. Clark, Jenkins, and Miller: AN ACT relating to candidates' nomination papers.

HB 353, by Representatives Horlander, A. Arnold, Jenkins, and Miller: AN ACT relating to candidates for office.

HB 354, by Representative Gray: AN ACT relating to contract attorneys and local school boards.

HB 355, by Representative Vincent: AN ACT relating to the protection of children placed in out-of-home care.

HB 356, by Representative Edmonds: AN ACT relating to school employees.

HR 108, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Shirley Kay Fetters.

HR 109, by Representative Ballard: A RESOLUTION honoring Father Martin Mattingly upon the occasion of his imminent retirement.

HJR 110, by Representative Ford: A JOINT RESOLUTION naming Kentucky Route 1786 in Rockcastle County the "Ballard Parsons Highway" and declaring an emergency.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 343, 348, HCR 106**

Appropriations and Revenue: **HB 336, 346, 349**

Banking and Insurance: **HB 332, 338**

Education: **HB 341**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 350**

Health and Welfare: **HB 333, 351**

Judiciary: **HB 342, 344, HJR 102**

Labor and Industry: **HB 339, 340**

Natural Resources and Environment: **HB 335**

Seniors, Military Affairs, and Public Safety: **HB 334, HR 107**

State Government: **HB 337**

Transportation: **HB 345, 347, HCR 103, HJR 104**

House Floor: **HR 105**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 142, 143**

Judiciary: **HB 153, 263**

Natural Resources and Environment: **HB 159, 286, 35**

State Government: **HB 174, 256, 273, 296, 314, 317, 329, HCR 88, 89**

Report of Committees

The Committee on Health and Welfare reported **HB 68, HB 71, HB 77,** with Committee Substitute attached thereto, **HB 194, HB 270,** and **HJR 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 68, AN ACT relating to medical licensure, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any member of the impaired physicians program created under KRS 311.616, as well as any administrator, staff member, consultant, agent, or employee of the program acting within the scope of his or her duties and without actual malice, and all other persons who furnish information to the program in good faith and without actual malice, shall not be liable for any claim or damages as a result of any statement, decision, opinion, investigation, or action taken by the program, or by any individual member of the program.

Section 2. Whereas the impaired physicians program provides critical services to the Board of Medical Licensure and serves to protect the health and safety of the public, and there is an immediate need for the program to receive important information without fear of liability, an emergency is declared to exist and this Act shall take effect upon signature of the Governor or upon its otherwise becoming law.

HB 71, AN ACT relating to adoption.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.520 is amended to read as follows:

(1) After hearing the case, the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child; and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment, the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural child of the parents adopting it the same as if born of their bodies. Upon granting an adoption, all legal relationship between the adopted child and the biological parents shall be terminated except the relationship of a biological parent who is the spouse of an adoptive parent.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

(4) (a) The health history ***and other nonidentifying background information*** of biological parents and blood relatives of the adopted person, in writing, on a standardized form, provided by the cabinet, if known, shall be given by the cabinet or child-placing agency which has the information to the adoptive parents and to the Circuit Court not later than the date of finalization of the adoption proceedings. This information shall include the results of any tests for HIV or hepatitis A, B, and C; and

(b) The information provided for in paragraph (a) of this subsection, if known, shall, upon the request in person or in writing of the adult adopted person be made available in writing to that person. The information shall not be made available if it is of a nature that would tend to identify the biological parents of the adopted person except as provided in KRS 199.570 and 199.572.

HB 77, AN ACT relating to children's health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares:

(1) The percentage of the state's children and adults who are obese exceeds the national average.

(2) Obesity leads to higher rates of diabetes, heart disease, strokes, and kidney failure. These diseases, often arising in older age as a result of unhealthy lifestyles that began during the person's youth, place an undue financial burden on individuals, the health care industry, and state health care programs.

(3) The Commonwealth should inform children and their parents about the importance of good nutrition, healthy food choices, and physical activity and their effect on positive health outcomes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the contest requires otherwise, "school day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.

(2) During a school day, a school shall not sell the following items through vending machines, school stores, canteens, fundraisers by students, teachers, or groups: "chewing gum, soda waters, and water ices" as defined in 7 C.F.R. 210; "candy" which means any item that contains more than forty percent (40%) added sugar by weight; any juice or juice product that contains less than twenty-five percent (25%) real juice; or other items, except seeds, nuts, and dried fruit, that contain more than six (6) grams of fat per serving.

(3) The sale of any food or beverage item to students in competition with the School Breakfast Program or National School Lunch Program, except for the beverages outlined in subsection (4) of this section, shall be prohibited on the school campus during the school day until thirty (30) minutes after the close of the last lunch period.

(4) Outside the cafeteria, a school may sell water, low-fat milk, or juice that contains at least twenty-five percent (25%) real juice at any time during the school day except during the breakfast and lunch serving periods.

(5) A high school, which for purposes of this section means school configurations of grades nine (9) to twelve (12), ten (10) to twelve (12), or eleven (11) to twelve (12), may sell soda waters one-half (1/2) hour after the close of the last lunch serving period. No other school shall be permitted to sell soda waters on the school campus at any time during the school day.

(6) A school may offer for a la carte sale on the cafeteria line only those items that meet the United States Department of Agriculture standard for a breakfast or lunch component, using the food-based or enhanced food-based menu planning method, except that frozen desserts that contain at least twenty-five percent (25%) real juice, yogurt, and dairy products may be offered.

(7) Each school is encouraged to offer, serve, sell, or otherwise make water available to students.

(8) Each school shall provide as a dietary option at least six (6) grams of naturally occurring dietary fiber in the school lunch, averaged over a period of one (1) week.

(9) Nothing in this section shall be construed to prohibit or limit the sale of any food or beverage item to teachers, administrators, or other adult school employees in a separate area that is not accessible to students.

(10) The provisions of this section shall become effective with the 2004-2005 school year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Each school district shall appoint a food service director who is responsible for the management and oversight of the food service program in the district, except two (2) or more contiguous districts may form one (1) "school food service area" and a school food service director shall be selected by the participating school superintendents to oversee the "school food service area."

(2) (a) Any person serving as a school food service director on the effective date of this Act and who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential by July 30, 2006.

(b) Any person appointed to serve as school food service director after the effective date of this Act who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential within three (3) years of his or her appointment.

(c) Ten (10) clock hours of the required continuing education for maintaining the appropriate credential or certificate under this subsection shall be directly related to applied nutrition and healthy meal planning and

preparation.

(3) School cafeteria managers shall annually receive at least two (2) hours of continuing education in applied nutrition and healthy meal planning and preparation.

Section 4. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. They shall include the following: the courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) ***Thirty (30) minutes of structured, moderate to vigorous physical activity each day, or one hundred thirty-five (135) minutes per week, with the following implementation schedule: beginning in the 2005-2006 school year, preschool through the intermediate program; and beginning in the 2006-2007 school year, the middle school program. The required physical activity shall be completed in at least fifteen (15) minute segments. The administrative regulation shall specify alternative plans and optional activities for integration of daily physical activity during the school day. Schools are encouraged to utilize and consult with certified physical education specialists in the development of their physical activity plans;***

(h) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

(i)[~~(h)~~] The transportation of children to and from school;

(j)[~~(i)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(k)[~~(j)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(l)[~~(k)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(m)[~~(l)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request

that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates the provisions of Section 2 of this Act shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food or beverage;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food or beverage;

(c) "Habitual violations" which means five (5) or more violations within a six (6) month period shall result in a six (6) month ban on competitive food and beverage sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

The Committee Substitute to **HB 77** is as follows:

HB 77, AN ACT relating to children's health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares:

(1) The percentage of the state's children and adults who are obese exceeds the national average.

(2) Obesity leads to higher rates of diabetes, heart disease, strokes, and kidney failure. These diseases, often arising in older age as a result of unhealthy lifestyles that began during the person's youth, place an undue financial burden on individuals, the health care industry, and state health care programs.

(3) The Commonwealth should inform children and their parents about the importance of good nutrition, healthy food choices, and physical activity and their effect on positive health outcomes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise, "school day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.

(2) During a school day, a school shall not sell the following items through vending machines, school stores, canteens, or fundraisers by students, teachers, or groups: chewing gum and water ices as defined in 7 C.F.R. Part 210; any food item that contains more than forty percent (40%) added sugar by weight; any juice or juice product that contains less than twenty-five percent (25%) real juice; or other items, except seeds and nuts, that contain more than six (6) grams of fat per serving.

(3) An elementary or middle school shall not sell soda waters, as defined in 7 C.F.R. Part 210, beverages that contain caffeine, or other beverages that contain ten (10) or more grams of sugar per serving except for low-fat plain or low-fat flavored milk through vending machines, school stores, canteens, or fundraisers during the school day.

(4) The sale of any food or beverage item to students in competition with the School Breakfast Program or National School Lunch Program, except for the beverages outlined in subsection (5) of this section, shall be prohibited on the school campus during the school day until thirty (30) minutes after the close of the last lunch period.

(5) A school may sell water, low-fat milk or low-fat flavored milk, or juice that contains at least twenty-five percent (25%) real juice at any time during the school day except during the breakfast and lunch serving periods.

(6) A high school, which for purposes of this section means school configurations of grades nine (9) to twelve (12), ten (10) to twelve (12), or eleven (11) to twelve (12), may sell soda waters one-half (1/2) hour after the close of the last lunch serving period. No other school shall be permitted to sell soda waters on the school campus at any time during the school day.

(7) A school may offer for a la carte sale on the cafeteria line only those items that meet the United States Department of Agriculture standard for a breakfast or lunch component, using the food-based or enhanced food-based menu planning method, except that frozen desserts that contain at least twenty-five percent (25%) real juice, yogurt, and dairy products may be offered.

(8) Each school is encouraged to offer, serve, sell, or otherwise make water available to students.

(9) Each school shall provide as a dietary option at least six (6) grams of naturally occurring dietary fiber in the school lunch, averaged over a period of one (1) week.

(10) Nothing in this section shall be construed to prohibit or limit the sale of any food or beverage item to teachers, administrators, or other adult school employees in a separate area that is not accessible to students.

(11) The provisions of this section shall become effective with the 2004-2005 school year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Each school district shall appoint a food service director who is responsible for the management and oversight of the food service program in the district, except two (2) or more contiguous districts may form one (1) "school food service area" and a school food service director shall be selected by the participating school superintendents to oversee the "school food service area."

(2) (a) Any person serving as a school food service director on the effective date of this Act and who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential by July 30, 2006.

(b) Any person appointed to serve as school food service director after the effective date of this Act who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential within three (3) years of his or her appointment.

(c) Ten (10) clock hours of the required continuing education for maintaining the appropriate credential or certificate under this subsection shall be directly related to applied nutrition and healthy meal planning and preparation.

(3) School cafeteria managers shall annually receive at least two (2) hours of continuing education in applied nutrition and healthy meal planning and preparation.

Section 4. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. They shall include the following: the courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) ***Thirty (30) minutes of structured, moderate to vigorous physical activity each day, or one hundred thirty-five (135) minutes per week, with the following implementation schedule: beginning in the 2005-2006 school year, preschool through the intermediate program; and beginning in the 2006-2007 school year, the middle school program. The required physical activity shall be completed in at least fifteen (15) minute segments. The administrative regulation shall specify alternative plans and optional activities for integration of daily physical activity during the school day. Schools are encouraged to utilize and consult with certified physical education specialists in the development of their physical activity plans;***

(h) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

(i)[~~(h)~~] The transportation of children to and from school;

(j)[~~(i)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(k)[~~(j)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(l)[~~(k)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(m)[~~(l)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates the provisions of Section 2 of this Act shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food or beverage;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food or beverage;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food and beverage sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

HB 194, AN ACT relating to services to individuals with mental illness, alcohol and other drug disorders, and dual diagnoses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The secretary of the Justice Cabinet;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services;

(e) The commissioner of the Department for Medicaid Services;

(f) The commissioner of the Department of Corrections;

(g) The commissioner of the Department of Juvenile Justice;

(h) The commissioner of the Department of Education;

(i) The commissioner of the Department of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) The director of the Office of Family Resource and Youth Services Centers;

(l) The executive director of the Office of Aging Services of the Cabinet for Health Services;

(m) The executive director of the Kentucky Agency for Substance Abuse Policy;

(n) The executive director of the Criminal Justice Council;

(o) The director of the Administrative Office of the Courts;

(p) The chief executive officer of the Kentucky Housing Corporation;

(q) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;

(r) The commissioner of the Department of Public Health;

(s)[~~(k)~~] Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;[~~ and~~]

(t)[~~(l)~~] Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President***;***

(u) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(v) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and

(w) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members ***designated in paragraphs (a) to (t) of subsection (1) of this section*** shall serve during their terms of office.

(4) Members and alternates designated in paragraphs (u) to (w) of subsection (1) of this section shall serve a term of two

(2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 2. KRS 210.504 is amended to read as follows:

(1) The commission created in KRS 210.502 shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly[~~ during the 2000-2001 biennium, and the first meeting shall be held within six (6) months of April 21, 2000. The commission shall meet at least biennially thereafter,~~] or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.

(2) The commission shall receive, integrate, and report[~~, as required by subsection (5) of this section,~~] the findings and recommendations of the regional planning councils established under KRS 210.506. ***The regional planning councils shall provide additional information or study particular issues upon request of the commission.***

(3) The commission:

- ***(a) May establish work groups to develop statewide recommendations from information and recommendations received from the regional planning councils;***
- ***(b) May establish work groups to address issues referred to the commission; and***
- ***(c) Shall ensure that the regional planning councils have an opportunity to receive, review, and comment on any recommendation or product issued by a work group established under this subsection before the commission takes any formal action on a recommendation or product of a work group.***

(4)[~~(3)~~] The commission shall serve in an advisory capacity to accomplish the following:

- (a) Based on information provided under subsection (2) of this section:
  - 1. Assess the needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;
  - 2. Assess the capabilities of the existing statewide treatment delivery system including gaps in services and the adequacy of a safety net system; and
  - 3. Assess the coordination and collaboration of efforts between public and private facilities and entities***,*** ***including but not limited to the Council on Postsecondary Education when assessing workforce issues***, and the roles of the Department for Mental Health and Mental Retardation and the regional community mental health centers, state hospitals, and other providers;
- (b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;
- (c) Recommend comprehensive and integrated programs for providing mental health and substance abuse services and preventive education to children and youth, utilizing ***schools and*** community resources;
- (d) Develop recommendations to decrease the incidence of ***repeated arrests, incarceration, and*** multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; and
- (e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts.

(5)[~~(4)~~] The commission shall develop a comprehensive state plan that ***provides***[~~will provide~~] a template for decision-making regarding program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. ***The state plan shall also include strategies for increasing public awareness and reducing the stigma associated with mental illness and substance abuse disorders.***

(6)[~~(5)~~] [~~Within six (6) months after receiving reports and recommendations from the regional planning councils established under KRS 210.506, the co-chairs of the commission shall present the plan to the Governor and the members of the General Assembly.~~]The state plan shall[~~:~~

- ~~(a)~~] advise the Governor and the General Assembly concerning the needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses[~~;~~] and[
- ~~(b) Advise the Governor and the General Assembly on~~] whether the recommendations should be implemented by administrative regulations or proposed legislation for the[~~ 2002~~] General Assembly.

(7)[~~(6)~~] ***The commission shall develop a two (2) year work plan, beginning in 2003, that specifies goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses and efforts to reduce the stigma associated with mental illness and substance abuse disorders.***

(8) The commission shall review the plan[~~ annually~~] and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

[~~(7) The commission shall cease to exist four (4) years after April 21, 2000, unless otherwise reauthorized by the General Assembly.~~]

Section 3. KRS 210.506 is amended to read as follows:

(1) The regional community mental health-mental retardation boards established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning. The councils shall be attached to the community mental health-mental retardation boards for administrative purposes.

(2) A member of the regional community mental health-mental retardation board shall serve as chair of the regional planning council.

(3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:

(a) Family members of ***individuals***[~~adults and children~~] with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) Consumers of mental health and substance abuse services;

(c) County officials and business leaders;

(d) Health departments and primary care physicians;

(e) Advocates and community organizations;

(f) Educators and school personnel;

(g) Regional interagency councils established under KRS Chapter 200;

(h) Law enforcement and court personnel;

(i) Public and private ***organizations, agencies, or*** facilities that provide services for mental health and substance abuse in the region ***that represent***[~~representing~~] inpatient services, outpatient services, residential services, and community-based supportive housing programs;[~~ and~~]

(j) Individuals who provide mental health and substance abuse services in the region***; and***

(k) Public and private hospitals that provide mental health and substance abuse services.

(4) The regional planning councils may establish bylaws and procedures to assist in the operation of the councils.

Section 4. KRS 210.509 is amended to read as follows:

(1) The regional planning councils shall meet as often as necessary to accomplish their purpose.

(2) The regional planning councils shall:

(a) Assess in the region the needs of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) 1. Study the regional mental health and substance abuse treatment delivery system ***and identify specific barriers in each region to accessing services***;

2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system ***and the adequacy and availability of the mental health and substance abuse professional work force in each region***; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities;

(c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. The strategies may include:

1. Exploration of the use of community-based treatment programs***, including but not limited to community-based hospitalization***;

2. Access to and funding for the most effective medications;

3. Promotion of family and consumer support groups statewide;[~~ and~~]

4. Reduction of instances of criminalization of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; ***and***

5. Efforts to increase housing options for persons at risk of institutionalization;

(d) Identify funding needs ***and report to the commission established in Section 1 of this Act about the use of any flexible safety net funding if appropriated by the General Assembly***;

(e) Evaluate the access of children and youth to mental health and substance abuse services and preventive programs within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance abuse providers and facilities, physical health care providers and facilities, the faith community, and community agencies;

(f) Collect and evaluate data regarding individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services; ***and***

(g)[~~ Recommend an effective quality assurance and consumer satisfaction monitoring program; and~~

~~(h)~~] Make recommendations on each subsection of this section to the commission established under KRS 210.502 ***by***

July 1 of each odd-numbered year[~~within eight (8) months of April 21, 2000~~]. These recommendations may be incorporated into the regional annual plans required by KRS 210.400.

[~~(3) The regional councils shall cease to exist four (4) years after April 21, 2000, unless otherwise authorized by the General Assembly.~~]

Section 5. KRS 210.040 is amended to read as follows:

The Cabinet for Health Services shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care, and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

  (a) Identification of persons with chronic mental illness residing in the area to be served;

  (b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing, and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

  (c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class or consolidated local government with any funds available to the cabinet;

  (d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and

  (e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) ***Require all providers who receive public funds through state contracts, state grants, or reimbursement for services provided to have formalized quality assurance and quality improvement processes, including but not limited to a grievance procedure; and***

(9) Supervise private mental hospitals receiving patients committed by order of a court.

HB 270, AN ACT relating to mental retardation and developmental disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.575 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:

  (a) The secretary of the Cabinet for Health Services;

  (b) The secretary of the Cabinet for Families and Children;

  (c) The commissioner of the Department for Mental Health and Mental Retardation Services;

  (d) The commissioner of the Department for Medicaid Services;

  (e) The commissioner of the Department of Vocational Rehabilitation;

  (f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;

  (g) The director of the Kentucky Council on Developmental Disabilities;

  (h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

  (i) Two (2) members of the Senate, appointed by the Senate President; and

  (j) Public members, appointed by the Governor as follows:

1. Five (5) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities. Of these five (5) family members, at least two (2) shall be members of a family with an individual with mental retardation or other developmental disabilities residing in the home of the family member or in a community-based setting, and at least two (2) shall be members of a family with an individual with mental retardation or other mental disabilities residing in an institutional residential facility that provides service to individuals with mental retardation or other developmental disabilities;

2. Three (3) persons with mental retardation or other developmental disabilities;

3. Two (2) business leaders;

4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and

5. One (1) representative of a statewide advocacy group.

The six (6) appointments made under subparagraphs 1. and 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.

(2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.

(3) Members defined in paragraphs (a) to (i) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed ***for one (1) additional four (4) year term***.

(4) All public members of the commission shall receive twenty-five dollars ($25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.

Section 2. KRS 210.577 is amended to read as follows:

(1) The commission created in KRS 210.575 shall meet at least quarterly[~~ during the 2000-2001 biennium, at least biennially thereafter,~~] or upon the call of the chair, the request of four (4) or more members, or the request of the Governor.

(2) The commission shall serve in an advisory capacity to accomplish the following:

(a) Advise the Governor and the General Assembly concerning the needs of persons with mental retardation and other developmental disabilities;

(b) Develop a statewide strategy to increase access to community-based services and supports for persons with mental retardation and other developmental disabilities. The strategy shall include:

1. Identification of funding needs and related fiscal impact; and

2. Criteria that establish priority for services[~~ for individuals approved for slots~~] that consider timeliness and service needs;

(c) Assess the need and potential utilization of specialized outpatient clinics for medical, dental, and special therapeutic services for persons with mental retardation and other developmental disabilities;

(d) Evaluate the effectiveness of state agencies and public and private service providers, including nonprofit and for-profit service providers, in:

1. Dissemination of information and education;

2. Providing outcome-oriented services; and

3. Efficiently utilizing available[~~ slots and~~] resources, including blended funding streams;

(e) Develop a recommended comprehensive ten (10) year plan for placement of qualified persons in the most integrated setting appropriate to their needs;

(f) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of family members, persons with mental retardation and other developmental disabilities, and advocates in quality assurance efforts; and

(g) Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation[~~ for the 2002 General Assembly~~].

(3)[~~ Within six (6) months after April 14, 2000, the secretary of the Cabinet for Health Services shall present the plan to the Governor and the members of the General Assembly.~~

~~(4)~~] The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

[~~(5) The commission shall cease to exist four (4) years after April 14, 2000, unless otherwise reauthorized by the General Assembly.~~]

HJR 16, A JOINT RESOLUTION directing the Cabinet for Health Services to conduct a study to identify strategies to maximize the use of the federal prescription drug discount program under Section 340B of Public Law 102-585.

WHEREAS, Section 340B of Public Law 102-585 provides discounts on outpatient drugs to certain covered entities; and

WHEREAS, the 340B program provides access to these discounts to more than 9,000 health care facilities that are certified as covered entities by the United States Department of Health and Human Services; and

WHEREAS, more than 250 entities in Kentucky are already participating in this valuable discount program; and

WHEREAS, on average, the 340B program prices for drugs are estimated to be 51 percent lower than the average wholesale price, 39 percent lower than average manufacturer's price, and 19 percent lower than the Medicaid net price; and

WHEREAS, there is a significant number of safety net providers in the state that may qualify as covered entities that are not participating in the program; and

WHEREAS, expansion of the 340B program to more covered entities will result in less expensive prescription drugs for many people who otherwise have no or limited access to discounted prescription drug prices; and

WHEREAS, it is possible that expansion of the 340B program could result in substantial savings in Medicaid;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health Services shall lead a work group to explore all avenues to maximize prescription drug discounts that may be achieved by using the 340B program. The work group shall study and report on:

(1) The benefits of the 340B program;

(2) Strategies and options to encourage health care providers participating in Medicaid to access 340B discounts;

(3) Innovative approaches and strategies to increase the number of health care providers participating in the program;

(4) Strategies to improve access to prescription drug discounts for consumers of other publicly supported programs and services, including but not limited to state-operated and state-supported mental health services, and health care services provided to inmates of state and local correctional facilities and county jails;

(5) Strategies to increase access to prescription drug discounts under the 340B program for the uninsured;

(6) The estimated cost savings associated with increased participation in the 340B program; and

(7) Policy considerations for the General Assembly.

Section 2. The secretary of the Cabinet for Health Services shall appoint representatives from the Department for Medicaid Services, the Department for Public Health, the Department for Mental Health and Mental Retardation Services, and the Office on Aging as members of the work group and may invite other safety net health care providers and private health care organizations to join the work group. The secretary of the Justice Cabinet shall appoint representatives from the Department of Corrections as members of the work group. The executive director or a designee of the Kentucky Jailers' Association shall be a member of the work group.

Section 3. The Cabinet for Health Services shall submit a report of its findings and recommendations by October 30, 2003, to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health and Welfare.

The Committee on Local Government reported **HB 51, HB 66, HB 73, HB 107, HB 109,** with Committee Substitute and Committee Amendment attached thereto, **HB 132, HB 144,** and **HB 154** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 51, AN ACT relating to fire district boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.260 is amended to read as follows:

(1) The board may fix the respective salaries of its members on a per meeting basis not to exceed twenty-five dollars ($25) per meeting and not to exceed ***four (4) meetings***[~~one (1) meeting~~] per month.

(2) The board shall meet at least once a month at a time and place designated by the board and all meetings, except executive meetings, shall be open to the public.

HB 66, AN ACT relating to parks and recreation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 97.035 is amended to read as follows:

(1) If two (2) or more political subdivisions determine to jointly establish, maintain, and conduct a park and recreation system or systems, which may include but shall not be limited to the establishment, maintenance, and conduct of zoos and

museums, the legislative bodies of such counties, cities, or other districts involved may by ordinance, order, or resolution approve a plan for the establishment of such joint project and for the creation of a joint board representative of the subdivisions involved, and possessed with all the powers and duties of KRS 97.010 to 97.050. This subsection authorizes the creation of a joint board by any two (2) or more cities or any city and county for purposes of establishment, maintenance, and conduct of zoos and the creation of another joint board for purposes of establishment, maintenance, and conduct of museums.

(2) Except in a county containing a consolidated local government, such board shall consist of not less than five (5) members. The plan shall provide for distribution of membership and all participating governmental units shall have representation thereon. The members of the board shall be appointed by the county judge/executive, mayor of the city, or governing body of the district, as the case may be, for terms of four (4) years to serve at the pleasure of the appointing authority. Vacancies shall be filled for unexpired terms by appointment of the authority appointing the member whose office is vacant. The terms of office of such members shall be staggered as provided by order or resolution of the political subdivisions concerned. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(3) The board shall be a body corporate for all purposes, and shall elect from its membership a chairman, secretary, and treasurer. The treasurer shall execute a bond conditioned on the faithful performance of his or her duties sufficient in amount to cover funds coming into his or her hands. The premium on such bond shall be paid from board funds.

(4) Any park, playground, or recreation system operated jointly by two (2) or more political subdivisions as provided in KRS 97.010 (2), on June 19, 1958, shall be governed by this section.

(5) Notwithstanding subsections (1), (2), and (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the joint department shall become a department of the consolidated local government and all assets and liabilities of the joint department shall be transferred to the consolidated local government. An advisory board may be established or maintained by a consolidated local government. Members of the advisory board shall be appointed pursuant to the provisions of KRS 67C.139 and shall serve at the pleasure of the mayor of the consolidated local government.

(6) Notwithstanding subsections (1), (2), and (3) of this section, any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under this section may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of the city and county.

HB 73, AN ACT relating to the employees of an urban-county adult misdemeanant probation and work release agency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.550 is amended to read as follows:

(1) If any District Court places a person on probation following a conviction of crime, either upon verdict or plea, the court may direct that the defendant be under the supervision of the Department of Corrections.

(2) In counties containing an urban-county form of government, the urban-county council shall provide for supervision of a person placed on probation or work release by the District Court of the county following a conviction of crime, either upon a verdict or plea, under the supervision of an adult misdemeanant probation and work release agency of the urban-county government. The employees of the agency shall be ***classified civil service employees of a correctional services division created under KRS 67A.028 and***[~~appointed by the mayor of the urban-county government and shall serve at his pleasure but~~] shall be subject to the direction[~~ and control~~] of the judges of the District Court in the performance of their duties. There shall be the number of employees of said agency, including clerical personnel, as necessary for the operation of the agency, and they shall receive reasonable salaries to be fixed by the urban-county council which salaries shall be paid out of the urban-county treasury.

HB 107, AN ACT relating to local taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act, unless the context requires otherwise:

(1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock

company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

  (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

  (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

(3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;

(4) "Employee" means employee as defined in Section 3401(c) of the Internal Revenue Code;

(5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;

(6) "Gross receipts" means all revenues or proceeds derived from sales of goods or services by a business entity with only a deduction allowed for sales and excise taxes and returns and allowances;

(7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2002, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2002, that would otherwise terminate;

(8) "Net profit" in case of a business entity means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

  (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

  (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

  (c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

  (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

  (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;

(9) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, or consolidated local government;

(10) "Taxable gross receipts" in case of a business entity having payroll both within and without a tax district means gross receipts as defined in subsection (6) of this section, and as apportioned under Section 2 of this Act;

(11) "Taxable gross receipts" in case of a business entity having payroll only in one (1) tax district means gross receipts as defined in subsection (6) of this section;

(12) "Taxable net profit" in case of a business entity having payroll only in one (1) tax district means net profit as defined in subsection (8) of this section;

(13) "Taxable net profit" in case of a business entity having payroll both within and without a tax district means net profit as defined in subsection (8) of this section, and as apportioned under Section 2 of this Act; and

(14) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided for in subsection (2) of this section, net profit or gross receipts shall be apportioned to the tax district by multiplying the net profit or gross receipts by a fraction, the numerator of which is the payroll factor plus the sales factor, and the denominator of which is two (2).

  (a) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the tax district during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the tax district based on the time the individual's service is performed within the tax district.

(b) 1. The sales factor is a fraction, the numerator of which is the total sales of the business entity in the tax district during the tax period, and the denominator of which is the total sales of the business entity everywhere during the tax period.

2. Sales of tangible personal property are in the tax district if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the tax district regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in the tax district and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are apportioned to the tax district based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the tax district and the denominator of which is the total time spent performing that income-producing activity.

(2) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the tax district, the business entity may petition the tax district or the tax district may require, in respect to all or any part of the business entity's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one (1) or more of the factors;

(c) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the tax district; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit or gross receipts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Every business entity, other than a sole proprietorship, subject to taxation under KRS 92.281 or Section 18, 19, or 20 of this Act, shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars ($5,000).

(2) The quarterly estimated tax payments required under subsection (1) of this section shall be based on the lesser of:

(a) Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;

(b) Twenty-five percent (25%) of the preceding full year taxable year tax liability; or

(c) Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities if the tax liability for any of the three (3) preceding full taxable years exceeded twenty thousand dollars ($20,000).

(3) Any business entity that fails to submit the minimum quarterly payment required under subsection (2) of this section by the due date for the quarterly payment shall pay an amount equal to twelve percent (12%) per annum simple interest on the amount of quarterly payment required under subsection (2) of this section from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (2) of this section; or

(b) The due date of the annual return.

A fraction of a month is counted as an entire month.

(4) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the tax district or any first taxable year in which a business entity's tax liability exceeds five thousand dollars ($5,000).

(5) The provisions of this section shall not apply unless adopted by the tax district.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) In the case where the tax computed under Sections 1 to 17 of this Act is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return.

(2) (a) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;

(b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by Sections 1 to 17 of this Act.

(3) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) As specified by Sections 1 to 17 of this Act and its application, the federal income tax law and its application, and the administrative and judicial interpretations of the federal income tax law, for purposes of Sections 1 to 17 of this Act computations of gross income and deductions therefrom, gross receipts or sales, and deductions therefrom, accounting methods, and accounting procedures shall be as nearly as practicable identical with those required for federal income tax purposes.

(2) Every business entity subject to an occupational license tax governed by the provisions of Sections 1 to 17 of this Act shall keep records, render under oath statements, make returns, and comply with rules as the tax district from time to time may prescribe. Whenever the tax district judges it necessary, it may require a business entity, by notice served to the business entity, to make a return, render under oath statements, or keep records, as the tax district deems sufficient to show whether or not the business entity is liable for tax, and the extent of the liability.

(3) The tax district, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, may require the attendance of a representative of the business entity or of any other person having knowledge in the premises.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If any business entity dissolves or withdraws from a tax district during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of net profit or gross receipts taxes or tax withheld for the period of that taxable year during which the business entity had net profit or gross receipts or tax withheld in the tax district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

If a business entity makes, or is required to make, a federal income tax return, the net profit or gross receipts shall be computed for the purposes of Sections 1 to 17 of this Act on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) All business entities' returns for the preceding taxable year shall be made by April 15 in each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the tax district.

(2) Every business entity shall submit a copy of its federal income tax return at the time of filing its return with the tax district. Whenever, in the opinion of the tax district, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the tax district may compel the business entity to produce for inspection a copy of all statements and schedules in support thereof. The tax district may also require copies of reports of adjustments made by the federal government.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) A tax district may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service, for filing its return, if the business entity, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(2) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed and the tax paid to the tax district. A fraction of a month is counted as an entire month.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Section 12 of this Act, unless the context requires otherwise:

  (a) "Conclusion of the federal audit" means the date that the adjustments made by the Internal Revenue Service to net income or gross receipts as reported on the business entity's federal income tax return become final and unappealable; and

  (b) "Final determination of the federal audit" means the revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

(2) As soon as practicable after each return is received, the tax district may examine and audit it. If the amount of tax computed by the tax district is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the tax district within five (5) years from the date the return was filed, except as otherwise provided in this subsection.

  (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

  (b) In the case of a return where a business entity understates net profit or gross receipts, or omits an amount properly includable in net profit or gross receipts, or both, which understatement or omission or both is in excess of twenty-five percent (25%) of the amount of net profit or gross receipts stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.

  (c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final

determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the tax district receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this subsection may be extended by agreement between the business entity and the tax district. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(3) Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.

(4) A tax district may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (2) of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the tax district at the time prescribed for filing the tax return, determined without regard to any extension of time for filing the return.

(2) A tax district may impose minimum and maximum tax liabilities for the tax on net profits or gross receipts.

SECTION 12. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by Sections 1 to 17 of this Act.

(2) Any tax collected pursuant to the provisions of Sections 1 to 17 of this Act may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the tax district, whichever is the later, except that:

(a) In any case where the assessment period contained in Section 10 of this Act has been extended by an agreement between the business entity and the tax district, the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Exclusive authority to refund or credit overpayments of taxes collected pursuant to KRS 67.083 and 92.281 and Sections 18, 19, and 20 of this Act is vested in the tax district.

SECTION 13. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Every employer making payment of compensation shall deduct and withhold upon the compensation a tax determined under KRS 92.281, 67.083, or Section 18, 19, or 20 of this Act and pay in accordance with Section 14 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Every employer required to deduct and withhold tax under Section 13 of this Act shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter make a return and report to the tax district the tax required to be withheld under Section 13 of this Act, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the tax district.

(2) Every employer who fails to withhold or pay to the tax district any sums required by Sections 1 to 17 of this Act to be withheld and paid shall be personally and individually liable to the tax district for any sum or sums withheld or required to be withheld in accordance with the provisions of Section 13 of this Act.

(3) The tax district shall have a lien upon all the property of any employer who fails to withhold or pay over to the tax district sums required to be withheld under Section 13 of this Act. If the employer withholds but fails to pay the amounts withheld to the tax district, the lien shall commence as of the date the amounts withheld were required to be paid to the tax district. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the tax district.

(4) Every employer required to deduct and withhold tax under Section 13 of this Act shall annually on or before February 28 of each year complete and file on a form furnished or approved by the tax district a reconciliation of the tax withheld in each tax district where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information as determined by the tax district shall be submitted.

(5) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and license tax deducted by the employer from the compensation paid to the employee for payment to a tax district during the preceding calendar year.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under Section 13 of this Act.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to Section 13 of this Act shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under Sections 1 to 17 of this Act from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the tax district nor the cessation of holding any corporate office shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by Sections 1 to 17 of this Act at the time that the taxes imposed by Sections 1 to 17 of this Act become or became due.

(3) Every employee receiving compensation in a tax district subject to the tax imposed under KRS 92.281 or Section 18, 19, or 20 of this Act shall be liable for the tax notwithstanding the provisions of subsections (1) and (2) of this section.

SECTION 16. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Where there has been an overpayment of tax under Section 13 of this Act, refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under Section 13 of this Act by the employer.

(2) Unless written application for refund or credit is received by the tax district from the employer within two (2) years from the date the overpayment was made, no refund or credit shall be allowed.

(3) An employee who has compensation attributable to activities outside a tax district, based on time spent outside the tax district, but whose employer has withheld and remitted the occupational license fee on the compensation to another tax district, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the tax district may confirm with the employer the percentage of time spent and the amount of compensation for activities outside the tax district prior to approval of the refund.

SECTION 17. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) A business entity subject to tax on gross receipts or net profits shall pay a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:

(a) Files any return or report after the due date prescribed for filing or the due date as extended by the tax district, unless it is shown to the satisfaction of tax district that the failure to file is due to reasonable cause; or

(b) Fails to pay the tax computed on the return or report on or before the due date prescribed for filing.

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars ($25).

(2) Every employer who fails to file a return or pay the tax on or before the time prescribed under Section 14 of this Act shall pay a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars ($25).

(3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the tax district. A fraction of a month is counted as an entire month.

(4) Every tax imposed by Sections 1 to 17 of this Act, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the tax district from the business entity or other person liable therefor.

(5) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(6) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under Sections 1 to 17 of this Act of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(7) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of Sections 1 to 17 of this Act, or by the rules of the tax district or by written request for information to the business entity by the tax district.

(8) No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or

investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.

Section 18. KRS 68.180 is amended to read as follows:

(1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate[~~ or rates~~] not to exceed one and one-fourth percent (1.25%) of***:***

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county***;***[~~,~~] and

(b) The net profits ***or gross receipts*** of businesses, trades, professions, or occupations from activities conducted in the county.

(3) The provisions of subsection (2) of this section shall not apply to license fees imposed for regulatory purposes[~~ shall not be subject to such limitations~~] as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or upon income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in other cases where the county is prohibited by law from imposing a license tax.

(4)[~~(2)~~] The provisions and limitations of subsection ***(2) of this section***[~~(1)~~] shall not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 19. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits ***or gross receipts*** of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits ***or gross receipts*** of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

(3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

(a)[~~1.~~] For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

(b)[~~2.~~] For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

(4) Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license ***fee***[~~tax~~].

(5)[~~(2)~~] No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.

(6)[~~(3)~~] Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(7)[~~(4)~~] The provisions of subsection *(6)*[~~(3)~~] of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

(8)[~~(5)~~] On July 14, 2000, the provisions of subsection *(7)*[~~(4)~~] of this section notwithstanding, city license fees not credited against county license fees enacted under this section or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

(9)[~~(6)~~] A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

Section 20. KRS 91.200 is amended to read as follows:

(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing.

(2) License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on*:*

(a) Salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city (all of such being hereinafter collectively referred to as "wages")*;*[~~,~~] and

(b) The net profits ***or gross receipts*** of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits").

(3) Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in any other case where the city is prohibited by statute from imposing a license tax.

(4)[~~(2)~~] The rate fixed on both "wages*,*" ***gross receipts,*** and "net profits" shall be one and one-fourth percent (1.25%).

(5)[~~(3)~~] License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

(6)[~~(4)~~] Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.

(7)[~~(5)~~] The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to:

(a) The purchase of rights of way for highways, expressways, and the widening of existing streets;

(b) The purchase of lands for park, recreational, and other governmental facilities and for public off-street parking facilities;

(c) The purchase, construction, reconstruction, renovation, or remodeling of municipal buildings, and facilities;

(d) The replacement of machinery, wires, pipes, structural members or fixtures, and other essential portions of municipal buildings;

(e) The initial equipment of any newly acquired facility wherein any essential governmental function of the municipality may be located or carried on;

(f) The purchase and installation of traffic control devices and fire alarm equipment;

(g) The reconstruction and resurfacing, but not routine maintenance, of streets and other public ways;

(h) The acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment; and

(i) Engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.

(8)~~[(6)]~~ Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

(9)~~[(7)]~~ Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 21. KRS 68.190 is amended to read as follows:

Any amount paid to any city of the first class within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ***subsections***~~[subsection]~~ (1) ***and 2*** of KRS 68.180. Any amount paid to any other city within such county as a license fee, for the same privilege and for the same period, shall be credited against the county license fee payable under ***subsections***~~[subsection]~~ (1) ***and 2*** of KRS 68.180, provided that such city, at least thirty (30) days prior to the beginning of any county fiscal year, has contracted with the fiscal court to contribute annually to the support of joint agencies of such county and one or more cities in the county, an amount which bears the same ratio to the annual appropriation made for such joint agencies by a city of the first class in the county, as the assessed valuations for county tax purposes, as determined by the property valuation administrator, of the real and tangible personal property, excluding franchises, located within the corporate limits of such other cities, respectively, bears to the same assessed valuations within a city of the first class in said county.

Section 22. KRS 68.199 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 68.197*(7)*~~[(4)]~~, a county that enacts an occupational license fee under the authority of KRS 67.083 prior to attaining a population of thirty thousand (30,000) shall not be required to allow a credit against the county occupational license fee for an occupational license fee paid to a city within the county when it is determined that the population of the county exceeds thirty thousand (30,000).

(2) If prior to July 15, 2002, a county voluntarily granted a credit against the county occupational license fee under the terms of an ordinance, interlocal agreement, or other agreement with a city, the county shall not eliminate the credit after it is determined that the population of the county exceeds thirty thousand (30,000).

(3) After July 15, 2002, a county that enacts a new county occupational license fee or increases a county occupational license fee, after it is determined that the county population exceeds thirty thousand (30,000), shall be required to allow the credit against the city fee required by KRS 68.197*(7)*~~[(4)]~~ to the extent of the increase or new fee.

(4) For purposes of this section, the county population shall be determined based only on the official decennial census by the United States Bureau of the Census.

SECTION 23. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the maximum tax rates in Section 18, 19, and 20 of this Act, a tax district which levies a tax on net profits or gross receipts may levy a tax rate that would generate approximately the same amount of revenues as the prior year plus normal revenue growth experienced by the tax district over the prior five (5) years. A tax district may invoke the provisions of this section only once.

SECTION 24. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 17 of this Act shall apply on and after January 1, 2006, to all tax districts that levy an occupational license fee or a tax on net profits or gross receipts imposed under Sections 18, 19, and 20 of this Act and KRS 67.083 and 92.281, or any other statutory provision. However, a tax district may apply the provisions of Sections 1 to 17 of this Act to the levy of an occupational license fee or a tax on net profits or gross receipts imposed under Sections 18, 19, and 20 of this Act and KRS 67.083 and 92.281 or any other statutory provision by adoption of an ordinance prior to January 1, 2006.

HB 109, AN ACT relating to police merit boards in a consolidated local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67C.301 is amended to read as follows:

As used in KRS 67C.301 to 67C.327, unless the context otherwise requires:

(1) "Board" means the consolidated local government police force merit board or boards hereinafter created.

(2) "Chief" means a chief of a consolidated local government police force affected by KRS 67C.301 to 67C.327.

(3) "Assistant chief" means the next in command to the chiefs of the consolidated local government police force or forces affected by KRS 67C.301 to 67C.327.

(4) "Secretary" means the executive secretary~~[and examiner]~~ employed by the consolidated local government police force merit board or boards created as provided by KRS 67C.301 to 67C.327.

(5) "Officer" means any member of the consolidated local government police forces affected by KRS 67C.301 to 67C.327, including ***police***~~[chiefs, assistant chiefs, and patrol]~~ officers, corporals, sergeants, lieutenants, and captains~~[unless specifically excluded]~~.

Section 2. KRS 67C.305 is amended to read as follows:

(1) The mayor, subject to the approval of the legislative council of the consolidated local government, shall appoint ***five (5)***[~~four (4)~~] persons, who shall constitute the consolidated local government police force merit board of the consolidated local government. The members of the board shall serve without compensation. Each board appointee shall be at least thirty (30) years of age, a resident of the consolidated local government, and not related by either blood or marriage to either the mayor or any member of the legislative council of the consolidated local government. The first members of the board shall be appointed within thirty (30) days of the effective date of the ordinance creating a consolidated local government police force merit system and merit board. One (1) member of the board shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, ***two (2)***[~~one (1)~~] for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that an appointment to fill a vacancy on the board shall be made only for the unexpired term of the vacated position. Any board member may be removed by resolution of the legislative council of the consolidated local government for neglect, incapacity, misfeasance, or malfeasance on the part of a board member. No appointed board member shall hold any other public office, elective or appointive, during his or her term as a member of the board, and shall not receive any money, gift, or consideration of any type from any person, directly or indirectly, for or on account of any recommendation, proposal, or suggestion bearing upon the business of the board or the consolidated local government police force. Not more than ***three (3)***[~~two (2)~~] members shall be members of the same political party.

(2) Each appointee, before entering upon the discharge of his or her duties, shall qualify by subscribing, taking, and filling an oath of office as required by law.

(3) The ***officers***[~~members~~] of the consolidated local government police forces shall elect***,*** for a two (2) year term, two (2) ***police***[~~patrol~~] officers of the consolidated police forces with a minimum of five (5) or more years' service who shall serve as members of the board for the purpose of deciding discipline cases only, and who may vote in these cases. In case of a vacancy in a position held by a ***police***[~~patrol~~] officer, a new election shall be held within sixty (60) days of the date the vacancy occurs and the person elected shall fill the remainder of the original unexpired term.

Section 3. KRS 67C.307 is amended to read as follows:

(1) The board shall meet within thirty (30) days of the creation of the board and the members shall select from among themselves a chairman and vice chairman and adopt such rules, regulations, and bylaws not inconsistent with KRS 67C.301 to 67C.327 for the necessary operation of the board. In all ***nondisciplinary*** matters requiring a vote, a majority of the board members present and voting shall determine any questions, provided that at least three (3) board members are present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board shall be present to constitute a quorum, one (1) of which shall be a police officer as defined in KRS 67C.305(3).

Section 4. KRS 67C.309 is amended to read as follows:

(1) The board shall meet at least once every two (2) calendar months and minutes of each meeting shall be kept.

(2) The board***, with the approval of the mayor,*** shall employ a secretary who shall also conduct all examinations, prepare eligible lists, keep all records of the board's business, keep and maintain all minutes of all board meetings, and perform such other duties in connection with the business of the board as may be required. The secretary may be employed on either a part-time or full-time basis, and the secretary shall receive compensation as may be recommended by the board and approved by the legislative council. All orders and minutes of the board shall be signed by the chairman who shall be elected by the board members, and the minutes shall be countersigned by the secretary.

(3) All records and meetings of the board shall comply with KRS 61.805 to 61.884.

Section 5. KRS 67C.313 is amended to read as follows:

(1) All police officers of whatever rank and title of a consolidated local government police force shall be covered by the provisions of this section, except probationary officers. All officers of a consolidated local government police force on active duty or service as of the effective date of an ordinance creating a consolidated local government police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for the consolidated local government police force without examination or further qualification[~~, except and unless the chief of police shall, within sixty (60) days after the establishment of the board, certify to the board that any officer is physically unfit to continue his or her duties~~].

(2) All personnel covered by the provisions of this section, except probationary officers, shall be deemed to be permanent employees subject to their ability to satisfactorily perform their respective duties and subject to their good behavior.

(3) A probationary officer shall not be included in the merit system until that officer has satisfactorily completed his or her initial probationary period which shall be one (1) year from his or her sworn date. The one (1) year probationary period may be extended for up to six (6) months upon showing of just cause by the chief and approved by the board.

(4) Officers covered by the provisions of KRS 67C.303 and serving promotional probationary periods shall not be deemed excluded from the merit system during the promotional probationary periods.

Section 6. KRS 67C.315 is amended to read as follows:

(1) The provisions of KRS 67C.303, 67C.305, 67C.307, 67C.309, and 67C.319 shall not apply to the chief of police, assistant

chief, and any officers above the rank of captain of the consolidated local government police force. These officers shall be appointed by the mayor and shall not be considered covered under the employment protections of the merit board, except as provided in subsection (2) of this section.

(2) Any officer originally covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 who shall accept an appointment and qualify as chief of police, assistant chief of police, or officer above the rank of captain shall be deemed to have received a leave of absence from the classified service for and during his or her service in either of these respective positions. Should any chief of police, assistant chief of police, or officer above the rank of captain cease to serve in that capacity, he or she shall be restored to the same classification and rank which he or she held prior to the appointment ***without loss of seniority in grade***. Any person not covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 when appointed to the position of chief of police, assistant chief of police, or officer above the rank of captain shall not be deemed to be part of the classified service and shall not be placed in any classification or rank in the classified service when he or she ceases to serve in that position unless he or she goes through the normal qualification and classification procedures required by the board.

Section 7. KRS 67C.317 is amended to read as follows:

(1) No officer ***while on duty or in uniform*** covered by the provisions of KRS 67C.301 to 67C.327 shall directly or indirectly solicit or receive or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.

(2) No person shall use or promise to use his or her personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 67C.301 to 67C.327, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 67C.301 to 67C.327 shall sign or execute or promise to sign or execute a resignation dated or undated in advance of his or her appointment or promotion. No officer covered by the provisions of KRS 67C.301 to 67C.327 shall be suspended, laid off, demoted, promoted,[~~ fined,~~] disciplined, or threatened, or in any way changed in rank, duty, or compensation for withholding or neglecting to pay or make any contribution of any sort, either in money, goods, services, or anything of value for any political purpose whatsoever.

(3) No examination question on any examination given by the board shall relate to any political or religious opinion, belief, affiliation, or service and no appointment, promotion, demotion, suspension,[~~ fine,~~] or removal shall be brought about,[~~ effected,~~] affected, or influenced by these opinions, beliefs, affiliations, or services.

(4) No officer covered by the provisions of KRS 67C.301 to 67C.327 shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) Nothing contained in KRS 67C.301 to 67C.327 shall be so construed as to abridge the rights of any officer with respect to his or her personal opinions, beliefs, and right to vote.

Section 8. KRS 67C.319 is amended to read as follows:

(1) Every consolidated local government police force merit system board created shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the officers covered by KRS 67C.303, 67C.305, 67C.307, and 67C.309. No rule or regulation made, promulgated, or amended by any consolidated local government police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the police chief and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government police is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) Physical, mental, educational, citizenship, and age requirements for new officers;

(b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;

(c) A requirement that ***police***[~~patrol~~] officers have five (5) years of service as ***police***[~~patrol~~] officers before being eligible for promotion to the rank of sergeant;

(d) Provision for open, competitive, written, oral, ***other mental health,*** and physical examinations to determine the relative fitness of all candidates for original appointment and for promotion;

(e) A requirement of public notice of all examinations to be given by the merit board;

(f) Organization and meetings of the board; and

(g) Procedure and conduct of public hearings.

(3) The board***, with the approval of the mayor,*** shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written ***or other examinations***[~~tests~~] as required by the board.[~~ The chief examiner shall report to the board the results of all tests given by him or her and the examiners shall be solely responsible to the board. The chief examiner shall compile the grades of all applicants in strict compliance with procedures and percentages as set out in this section and shall deliver the scores of all~~

~~applicants for promotion to the chairman of the board, in a sealed envelope. The chief examiner shall not reveal to anyone the results of test scores for promotions other than in this manner.]~~

(4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(5) At least ninety (90) days' notice shall be given before a promotional examination is conducted.

(6) Promotional tests shall be graded, as determined by the board, to include~~[both]~~ written***,***~~[and]~~ oral***, and other*** examination scores. In addition, seniority in grade, not to exceed ten percent (10%), shall be awarded for each year of service after five (5) full years of service. The results of the written***,***~~[and]~~ oral ***and other*** examinations shall be combined ***with seniority*** to determine the applicant's final evaluated rating.

(7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination. ***An individual's results and ratings are subject to review by the individual candidate but are otherwise confidential.***

(8) ***The chief examiner shall compile the results of all examinations. Upon completion of grading of examinations, candidates shall be informed by mail as to the final evaluated rating attained and their individual ranking on the eligibility list. An applicant may, by appointment, discuss his or her examination results within the offices of the chief examiner during business hours at any time when such review will not interfere with the work of the board. Such review must be requested within ten (10) calendar days following the establishment of the eligibility list***~~[An applicant may file with the board a written challenge to the applicant's score on the written or oral examination within ten (10) days of notification of examination scores. The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge]~~.

(9) In filling promotional vacancies, the chief of police shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate ***with the higher evaluated rating*** who has been certified for promotion four (4) times. If the board determines that the candidate's nonpromotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.

Section 9. KRS 67C.321 is amended to read as follows:

(1) Any officer may be removed, suspended for a period not to exceed ***thirty (30)***~~[sixty (60)]~~ days, laid off, or reduced in grade by the chief for any cause which promotes the efficiency of the services, but before any such action is taken by the chief against any officer, the chief shall furnish the officer concerned with a written statement of the reasons why the described action is being taken. The officer may be reduced, removed, suspended for a period not to exceed ***thirty (30)***~~[sixty (60)]~~ days, or laid off from the date the written statement of reasons is served upon her or him. Each officer removed, suspended for a period not to exceed ***thirty (30)***~~[sixty (60)]~~ days, laid off, or reduced in grade shall be allowed a period of ten (10) days within which the officer may file a written answer to the charges and the reasons which caused her or his suspension, removal, or reduction. This answer shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except at the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for her or his action to the board.

(2) Any citizen who makes written, sworn charges of misconduct concerning the actions of any police officer shall present the charges to the chief of police who shall investigate the charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

Section 10. KRS 67C.323 is amended to read as follows:

In all cases provided for in KRS 67C.321, the action of the chief shall be final except in the following cases:

(1) Every action in the nature of a dismissal, suspension, or reduction made by the chief, shall be subject to review by the board at the request of any officer affected by KRS 67C.301 to 67C.327, and the board shall give notice and hold a public hearing. After the public hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board, and the board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the board shall not impose a penalty or punishment in excess of the action of the chief. No officer shall be removed or dismissed except as provided for in this section.

(2) ***An appeal to the board of a suspension of a nonprobationary officer of less than forty (40) hours may be heard by the full board or any hearing officer secured by the board. If the appeal is heard by a hearing officer, all rules established by the board relating to appeals of disciplinary actions shall be applicable. After the hearing, the hearing officer shall complete and submit to the board, no later than thirty (30) days after the hearing, a written recommended order which***

shall include his findings of fact, conclusions of law, and recommended disposition of the appeal, which may include recommended penalties. The recommended order shall also include a statement advising the appealing officer and chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing officer and chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the board. The board shall consider the record including the recommended order in any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the appeal of the matter, in whole or in part, to the hearing officer for further proceedings as appropriate. The final order of the board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.

(3) (a) Every action of a dismissal, suspension, or *demotion*[~~reduction~~] made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets. The board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action *with appropriate judicial review of an administrative action or decision*[~~and shall be tried anew, as if no action had been rendered by the board~~].

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

Section 11. KRS 67C.325 is amended to read as follows:

Procedural due process shall be afforded to any police officer brought before the board. The officer shall be given a prompt hearing by the board, have an opportunity to confront his or her accusers, and have the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, to compel the production of documents and other documentary evidence, and so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefits of the officer or the chief at the request of the officer or the chief.[~~ Any officer not given a hearing within sixty (60) days of being charged shall be reinstated in full.~~]

Section 12. KRS 67C.327 is amended to read as follows:

Upon the establishment of a consolidated local government *merit board*, the existing *or currently promulgated* promotional lists of the merit and civil service boards of the previously existing county and city of the first class governments shall remain in effect until their normal expiration date*, but no longer than two (2) years after the effective date of the ordinance required to be enacted by KRS 67C.303*.

The Committee Substitute to **HB 109** is as follows:

HB 109, AN ACT relating to police merit boards in a consolidated local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67C.301 is amended to read as follows:

As used in KRS 67C.301 to 67C.327, unless the context otherwise requires:

(1) "Board" means the consolidated local government police force merit board or boards hereinafter created.

(2) "Chief" means a chief of a consolidated local government police force affected by KRS 67C.301 to 67C.327.

(3) "Assistant chief" means the next in command to the chiefs of the consolidated local government police force or forces affected by KRS 67C.301 to 67C.327.

(4) "Secretary" means the executive secretary[~~ and examiner~~] employed by the consolidated local government police force merit board or boards created as provided by KRS 67C.301 to 67C.327.

(5) "Officer" means any member of the consolidated local government police forces affected by KRS 67C.301 to 67C.327, including *police*[~~chiefs, assistant chiefs, and patrol~~] officers, corporals, sergeants, lieutenants, and captains[~~ unless specifically excluded~~].

Section 2. KRS 67C.305 is amended to read as follows:

(1) The mayor, subject to the approval of the legislative council of the consolidated local government, shall appoint *five (5)*[~~four (4)~~] persons, who shall constitute the consolidated local government police force merit board of the consolidated local government. The members of the board shall serve without compensation. Each board appointee shall be at least thirty (30) years of age, a resident of the consolidated local government, and not related by either blood or marriage to either the mayor or any member of the legislative council of the consolidated local government. The first members of the board shall be appointed within thirty (30) days of the effective date of the ordinance creating a consolidated local government police force merit system and merit board. One (1) member of the board shall be appointed for a term of one

(1) year, one (1) for a term of two (2) years, ***two (2)***[~~one (1)~~] for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that an appointment to fill a vacancy on the board shall be made only for the unexpired term of the vacated position. Any board member may be removed by resolution of the legislative council of the consolidated local government for neglect, incapacity, misfeasance, or malfeasance on the part of a board member. No appointed board member shall hold any other public office, elective or appointive, during his or her term as a member of the board, and shall not receive any money, gift, or consideration of any type from any person, directly or indirectly, for or on account of any recommendation, proposal, or suggestion bearing upon the business of the board or the consolidated local government police force. Not more than ***three (3)***[~~two (2)~~] members shall be members of the same political party.

(2) Each appointee, before entering upon the discharge of his or her duties, shall qualify by subscribing, taking, and filling an oath of office as required by law.

(3) The ***officers***[~~members~~] of the consolidated local government police forces shall elect***,*** for a two (2) year term, two (2) ***police***[~~patrol~~] officers of the consolidated police forces with a minimum of five (5) or more years' service who shall serve as members of the board for the purpose of deciding discipline cases only, and who may vote in these cases. In case of a vacancy in a position held by a ***police***[~~patrol~~] officer, a new election shall be held within sixty (60) days of the date the vacancy occurs and the person elected shall fill the remainder of the original unexpired term.

Section 3. KRS 67C.307 is amended to read as follows:

(1) The board shall meet within thirty (30) days of the creation of the board and the members shall select from among themselves a chairman and vice chairman and adopt such rules, regulations, and bylaws not inconsistent with KRS 67C.301 to 67C.327 for the necessary operation of the board. In all ***nondisciplinary*** matters requiring a vote, a majority of the board members present and voting shall determine any questions, provided that at least three (3) board members are present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board shall be present to constitute a quorum, one (1) of which shall be a police officer as defined in KRS 67C.305(3).

Section 4. KRS 67C.309 is amended to read as follows:

(1) The board shall meet at least once every two (2) calendar months and minutes of each meeting shall be kept.

(2) The board***, with the approval of the mayor,*** shall employ a secretary who shall also conduct[~~ all~~] examinations, prepare eligible lists, keep all records of the board's business, keep and maintain all minutes of all board meetings, and perform such other duties in connection with the business of the board as may be required. The secretary may be employed on either a part-time or full-time basis, and the secretary shall receive compensation as may be recommended by the board and approved by the legislative council. All orders and minutes of the board shall be signed by the chairman who shall be elected by the board members, and the minutes shall be countersigned by the secretary.

(3) All records and meetings of the board shall comply with KRS 61.805 to 61.884.

Section 5. KRS 67C.313 is amended to read as follows:

(1) All police officers of whatever rank and title of a consolidated local government police force shall be covered by the provisions of this section, except probationary officers. All officers of a consolidated local government police force on active duty or service as of the effective date of an ordinance creating a consolidated local government police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for the consolidated local government police force without examination or further qualification[~~, except and unless the chief of police shall, within sixty (60) days after the establishment of the board, certify to the board that any officer is physically unfit to continue his or her duties~~].

(2) All personnel covered by the provisions of this section, except probationary officers, shall be deemed to be permanent employees subject to their ability to satisfactorily perform their respective duties and ***further*** subject to their good behavior.

(3) A probationary officer shall not be included in the merit system until that officer has satisfactorily completed his or her initial probationary period which shall be one (1) year from his or her sworn date. The one (1) year probationary period may be extended for up to six (6) months upon showing of just cause by the chief and approved by the board.

(4) Officers covered by the provisions of KRS 67C.303 and serving promotional probationary periods shall not be deemed excluded from the merit system during the promotional probationary periods.

Section 6. KRS 67C.315 is amended to read as follows:

(1) The provisions of KRS 67C.303, 67C.305, 67C.307, 67C.309, and 67C.319 shall not apply to the chief of police, assistant chief, and any officers above the rank of captain of the consolidated local government police force. These officers shall be appointed by the mayor and shall not be considered covered under the employment protections of the merit board, except as provided in subsection (2) of this section.

(2) Any officer originally covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 who shall accept an appointment and qualify as chief of police, assistant chief of police, or officer above the rank of captain shall be deemed to have received a leave of absence from the classified service for and during his or her service in either of these respective

positions. Should any chief of police, assistant chief of police, or officer above the rank of captain cease to serve in that capacity, he or she shall be restored to the same classification and rank which he or she held prior to the appointment ***without loss of seniority in grade***. Any person not covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 when appointed to the position of chief of police, assistant chief of police, or officer above the rank of captain shall not be deemed to be part of the classified service and shall not be placed in any classification or rank in the classified service when he or she ceases to serve in that position unless he or she goes through the normal qualification and classification procedures required by the board.

Section 7. KRS 67C.317 is amended to read as follows:

(1) No officer ***while on duty or in uniform*** covered by the provisions of KRS 67C.301 to 67C.327 shall directly or indirectly solicit or receive or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.

(2) No person shall use or promise to use his or her personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 67C.301 to 67C.327, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 67C.301 to 67C.327 shall sign or execute or promise to sign or execute a resignation dated or undated in advance of his or her appointment or promotion. No officer covered by the provisions of KRS 67C.301 to 67C.327 shall be suspended, laid off, demoted, promoted,~~[fined,]~~ disciplined, or threatened, or in any way changed in rank, duty, or compensation for withholding or neglecting to pay or make any contribution of any sort, either in money, goods, services, or anything of value for any political purpose whatsoever.

(3) No examination question on any examination given by the board shall relate to any political or religious opinion, belief, affiliation, or service and no appointment, promotion, demotion, suspension,~~[fine,]~~ or removal shall be brought about,~~[effected,]~~ affected, or influenced by these opinions, beliefs, affiliations, or services.

(4) No officer covered by the provisions of KRS 67C.301 to 67C.327 shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) Nothing contained in KRS 67C.301 to 67C.327 shall be so construed as to abridge the rights of any officer with respect to his or her personal opinions, beliefs, and right to vote.

Section 8. KRS 67C.319 is amended to read as follows:

(1) Every consolidated local government police force merit system board created shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the officers covered by KRS 67C.303, 67C.305, 67C.307, and 67C.309. No rule or regulation made, promulgated, or amended by any consolidated local government police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the police chief and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government police is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) Physical, mental, educational, citizenship, and age requirements for new officers;

(b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;

(c) A requirement that ***police***~~[patrol]~~ officers have five (5) years of service as ***police***~~[patrol]~~ officers before being eligible for promotion to the rank of sergeant;

(d) Provision for open, competitive, written, oral, ***and other mental*** and physical examinations to determine the relative fitness of all candidates for original appointment and for promotion;

(e) A requirement of public notice of all examinations to be given by the merit board;

(f) Organization and meetings of the board; and

(g) Procedure and conduct of public hearings.

(3) The board***, with the approval of the mayor,*** shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written ***or other examinations***~~[tests]~~ as required by the board.~~[The chief examiner shall report to the board the results of all tests given by him or her and the examiners shall be solely responsible to the board. The chief examiner shall compile the grades of all applicants in strict compliance with procedures and percentages as set out in this section and shall deliver the scores of all applicants for promotion to the chairman of the board, in a sealed envelope. The chief examiner shall not reveal to anyone the results of test scores for promotions other than in this manner.]~~

(4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(5) At least ninety (90) days' notice shall be given before a promotional examination is conducted.

(6) Promotional tests shall be graded, as determined by the board, to include~~[both]~~ written***,***~~[and]~~ oral***, and other*** examination scores. In addition, seniority in grade, not to exceed ten percent (10%), shall be awarded for each year of service after five (5) full years of service. The results of the written***,***~~[and]~~ oral ***and other*** examinations shall be combined ***with seniority*** to determine the applicant's final evaluated rating.

(7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination. ***An individual's results and ratings are subject to review by the individual candidate but are otherwise confidential.***

(8) ***The chief examiner shall compile the results of all examinations. Upon completion of grading of examinations, candidates shall be informed by mail of the final evaluated rating attained and their individual ranking on the eligibility list. An applicant may, by appointment, discuss his or her examination results within the offices of the chief examiner during business hours at any time when such review will not interfere with the work of the board. Such review must be requested within ten (10) calendar days following the establishment of the eligibility list.***~~[An applicant may file with the board a written challenge to the applicant's score on the written or oral examination within ten (10) days of notification of examination scores.]~~ The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge.

(9) In filling promotional vacancies, the chief of police shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate ***with the higher evaluated rating*** who has been certified for promotion four (4) times. If the board determines that the candidate's nonpromotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.

Section 9. KRS 67C.321 is amended to read as follows:

(1) Any officer may be removed, suspended for a period not to exceed ***thirty (30)***~~[sixty (60)]~~ days, laid off, or reduced in grade by the chief for any cause which promotes the efficiency of the services, but before any such action is taken by the chief against any officer, the chief shall furnish the officer concerned with a written statement of the reasons why the described action is being taken. The officer may be reduced, removed, suspended for a period not to exceed ***thirty (30)***~~[sixty (60)]~~ days, or laid off from the date the written statement of reasons is served upon her or him. Each officer removed, suspended for a period not to exceed ***thirty (30)***~~[sixty (60)]~~ days, laid off, or reduced in grade shall be allowed a period of ten (10) days within which the officer may file a written answer to the charges and the reasons which caused her or his suspension, removal, or reduction. This answer shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except at the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for her or his action to the board.

(2) Any citizen who makes written, sworn charges of misconduct concerning the actions of any police officer shall present the charges to the chief of police who shall investigate the charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

Section 10. KRS 67C.323 is amended to read as follows:

In all cases provided for in KRS 67C.321, the action of the chief shall be final except in the following cases:

(1) Every action in the nature of a dismissal, suspension, or ***demotion of a nonprobationary officer***~~[reduction]~~ made by the chief~~[,]~~ shall be subject to review by the board at the request of any officer affected by KRS 67C.301 to 67C.327***. An appeal to the board of a dismissal, demotion, or forty (40) hour or more suspension of a nonprobationary officer shall be heard by the full board.***~~[, and]~~ The board shall give notice and hold a public hearing. After the~~[public]~~ hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board, and the board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the board shall not impose a penalty or punishment in excess of the action of the chief. No officer shall be removed or dismissed except as provided for in this section.

(2) ***An appeal to the board of a suspension of a nonprobationary officer of less than forty (40) hours may be heard by the full board or any hearing officer secured by the board. If the appeal is heard by a hearing officer, all rules established by the board relating to appeals of disciplinary actions shall be applicable. After the hearing, the hearing officer shall complete and submit to the board, no later than thirty (30) days after the hearing, a written recommended order which shall include his findings of fact, conclusions of law, and recommended disposition of the appeal, which may include recommended penalties. The recommended order shall also include a statement advising the appealing officer and chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing officer and chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the board. The board shall consider the record including***

the recommended order in any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the appeal of the matter, in whole or in part, to the hearing officer for further proceedings as appropriate. The final order of the board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.

(3) (a) Every action of a dismissal, suspension, or ***demotion***~~[reduction]~~ made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets. The board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action ***with appropriate judicial review of an administrative action or decision***~~[and shall be tried anew, as if no action had been rendered by the board]~~.

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

Section 11. KRS 67C.325 is amended to read as follows:

Procedural due process shall be afforded to any police officer brought before the board. The officer shall be given a prompt hearing by the board, have an opportunity to confront his or her accusers, and have the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, to compel the production of documents and other documentary evidence, and so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefits of the officer or the chief at the request of the officer or the chief.~~[Any officer not given a hearing within sixty (60) days of being charged shall be reinstated in full.]~~

Section 12. KRS 67C.327 is amended to read as follows:

Upon the establishment of a consolidated local government ***merit board***, the existing ***or currently promulgated*** promotional lists of the merit and civil service boards of the previously existing county and city of the first class governments shall remain in effect until their normal expiration date***, or no longer than two (2) years after the effective date of the ordinance required to be enacted by KRS 67C.303***.

Section 13. Whereas it is imperative to have in place employment and disciplinary procedures for police departments which will merge after the formation of a consolidated local government, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 109** is as follows:

HB 109, Amend title to read as follows:

"An ACT relating to police merit boards in a consolidated local government and declaring an emergency.".

HB 132, AN ACT relating to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3) and (4) of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state, except for interlocal agreements between cities, counties, charter counties, urban-county governments, ***special districts,*** and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government. The Attorney General or the Department for Local Government shall approve any agreement submitted to them under this subsection unless they find that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General or the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the

construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(4) Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 2. KRS 65.320 is amended to read as follows:

There shall be created a ***County Official***~~[Local Government]~~ Training Advisory Council in Kentucky, to be composed of the presidents or their designees of the Kentucky Association of Counties, the County Judge/Executives Association, ***Kentucky Magistrates and Commissioners Association, the Kentucky County Clerks Association, the Kentucky Jailers Association, the Kentucky Sheriffs Association***~~[the Kentucky League of Cities, the chairperson of the Kentucky Urban Affairs Council]~~, and the commissioner of the Department for Local Government ***who shall act as chairperson. The council shall advise the Department regarding the provisions contained within KRS 64.5275(6). The council shall convene at the direction of the chairperson. The members of the council shall not be compensated for their duties on the council***.

Section 3. KRS 81.060 is amended to read as follows:

(1) At the hearing the court shall, if the proper notice has been given or publication made, and no defense is interposed, enter a judgment establishing a city as requested by the petition, filed pursuant to KRS 81.050, if the court finds as a matter of law that the following standards have been met:

  (a) At least three hundred (300) persons reside in the territory sought to be incorporated;

  (b) Incorporation constitutes a reasonable way of providing the public services sought by the voters or property owners of the territory, and there is no other reasonable way of providing the services;

  (c) The territory is contiguous;

  (d) The territory is able to provide necessary city services to its residents within a reasonable period after its incorporation; and

  (e) The interest of other areas and adjacent local governments is not unreasonably prejudiced by the incorporation.

(2) In determining whether the standards for incorporation have been met, the court shall consider, but shall not be limited to the consideration of the following criteria:

  (a) Whether the character of the territory is urban or rural;

  (b) The ability of any existing city, county or district to provide needed services;

  (c) Whether the territory and any existing city are interdependent or part of one (1) community;

  (d) The need for city services in the territory;

  (e) The development scheme of applicable land-use plans;

  (f) The area and topography of the territory; and

  (g) The effect of the proposed incorporation on the population growth and assessed valuation of the real property in the territory.

(3) Defense may be made to the petition by any inhabitant of the proposed city, and if defense is made, the court shall hear and determine the same, and render a judgment establishing or refusing to establish a city, as may seem proper.

(4) If the court renders judgment granting the petition, the order shall set out the name of the city, ***the organizational structure of the municipal government,*** a metes and bounds description of its boundaries, the population contained therein and the class to which the city shall be assigned by reason of its population. The order shall appoint the officers appropriate to the class of the new city, who shall hold their respective offices until the next regular election at which city officers are elected, at which time officers shall be elected by the residents of the new city.

(5) Whenever any city shall be established in the manner above provided, the court shall in the judgment direct the clerk of the court wherein such judgment is entered to, not later than ten (10) days thereafter, certify a copy thereof to the ***Department for Local Government and the*** Secretary of State, whose duty it shall be to properly index and file the same as a permanent record in his office.

Section 4. KRS 83A.060 is amended to read as follows:

(1) Each ordinance shall embrace only one (1) subject and shall have a title that shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ...."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication to provide for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of subsection (9) of this section shall be complied with within ten (10) days of the enactment of the emergency ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in the following manner:

(a) The city budget, appropriations of money, and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.

(9) Except in cities of the first class, a charter county government, and as provided in subsection (7) of this section, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be prepared ***under the supervision of***[~~and certified by~~] an attorney licensed to practice law in the Commonwealth of Kentucky and shall include the following:

(a) The title of the ordinance;

(b) A brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and

(c) The full text of each section that imposes fines, penalties, forfeitures, taxes, or fees.

Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(10) A city may specify by ordinance additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.

(11) At least once every five (5) years, each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.

(12) The legislative body may adopt municipal orders. Orders shall be in writing and may be adopted only at an official meeting. Orders may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the city has control.

(14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of the ordinances.

(15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the General Assembly.

Section 5. KRS 147A.025 is amended to read as follows:

(1) [~~Except as provided in subsection (7) of this section,~~]The Department for Local Government with the advice and approval of the state local finance officer annually shall conduct a program to instruct county clerks, sheriffs, jailers, and county treasurers respecting their duties and responsibilities in the collection and expenditure of public moneys, subject to their control and jurisdiction.

(2) The department with the advice and approval of the state local finance officer shall establish the content and publish instructional materials essential to implementing this program. Subsequent to every regular and extraordinary session of the General Assembly, the department with the state local finance officer shall review and revise, if necessary, the program when it is found not to be consistent with state law.

(3) The department may assess a charge to any person requesting copies of instructional materials published as provided by this section to cover actual costs of printing and handling these materials, except that no county official shall be charged for instructional materials provided for his use. Funds accruing from the sale of instructional materials shall be paid into the State Treasury, and the State Treasurer shall pay these funds into an account of the department to defray the costs of printing and handling these materials.

(4) The commissioner of the department with the advice and approval of the state local finance officer may prescribe completion standards for this program, and may, subject to subsection (6) of this section, establish the number, type and sequence of instructional sessions to be conducted by the department; but the commissioner of the department shall not require the attendance of any county official, nor shall he prescribe any requirement or standard that restricts or impairs a county official or elected candidate in the lawful pursuit or conduct of the office to which he is elected.

(5) The department shall notify in advance each county clerk, sheriff, jailer, and county treasurer respecting instructional session pertinent to his office. Notification shall be by mail, and it shall be posted no later than twenty-one (21) days prior to the instructional session. At a minimum, the notice shall give the date, time, place and title of the instruction session.

(6) The department shall conduct this program by providing a one (1) day session at various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year.[~~ Except as provided in subsection (7) of this section,~~] The department may commence instruction anytime during a calendar year.

(7)[~~ The department shall not conduct a program as provided by this section during any calendar year when a general election is held for every constitutional county office. The department, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.~~

~~(8)~~] Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.

(8)[~~(9)~~] In fulfilling the requirements of this section, the department shall confer with and coordinate its duties and responsibilities with the Finance and Administration Cabinet, the Revenue Cabinet and the Auditor of Public Accounts. The department shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in subsection (1) of this section, and the Kentucky Association of Counties, respecting the implementation of this section.

Section 6. The following KRS sections are repealed:

65.323 Duties of council.

65.327 Use of existing training providers.

65.330 Members not to be compensated.

65.333 Meetings.

65.337 Quorum -- Vote requirement.

HB 144, AN ACT relating to parking citation enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 82.600 is amended to read as follows:

As used in KRS 82.605 to 82.640 unless the context otherwise requires:

(1) "Local government" means a city of ***any class, a consolidated local government,*** [~~the first four (4) classes~~] or an urban-county government;

(2) "Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to KRS 82.605 to 82.640; and shall be composed of one (1) or more persons appointed in the manner provided by ordinance; and also means any hearing officer or officers appointed by the board. Any action of such hearing officer shall be deemed to be the action of the board; and

(3) "Parking ordinance" means an ordinance regulating parking, standing, or stopping upon the public streets or ways within the local government.

HB 154, AN ACT relating to mobile telephone use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No city, county, urban-county, charter county, consolidated local government, or special district shall impose a restriction on the use of a mobile telephone in a motor vehicle.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 175, HB 232,** and **HB 233,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 175, AN ACT relating to the regulation of elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall, on the day of any election as established in KRS 118.025, do any electioneering at the polling place or ***on public property located*** within a distance of five hundred (500) feet of a county clerk's office or ***on public property located within five hundred (500) feet of*** any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day~~[, unless the fiscal court or legislative body of an urban-county government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than five hundred (500) feet from the polling place]~~. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted ***on private property***~~[within a private residence or establishment]~~ other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and ***on public property located*** within five hundred (500) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

HB 232, AN ACT relating to vacancies in candidacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election made under KRS 118.215, because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of

nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election, and if that party's nominee was the only candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.

(5) If a vacancy occurs in the nomination of a candidate under the conditions of subsections (3) or (4) of this section after the certification of candidates for the regular election[~~ but not later than the second Thursday preceding the date of the regular election~~], ***no*** certificates of nomination[~~ for replacement candidates~~] shall be filed ***and any candidate whose name does not appear on the ballot may seek election by write-in voting under KRS 117.265***[~~in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs~~].

(6)[~~ If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265.~~

~~(7)~~] This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections.

Section 2. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2), (3), and (4) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the absentee ballots for the regular election the names of the following persons:

- (a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;
- (b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;
- (c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;
- (d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;
- (e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;
- (f) Successful nominees of all nonpartisan primaries which shall have been conducted;
- (g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;
- (h)[~~ The county clerk shall determine whether the name of any replacement candidate who has been nominated as provided in KRS 118.105(5) may be placed on the machine ballot or ballot cards and whether the voting machine may be reprogrammed to count the votes cast for that candidate or whether the ballot or ballot cards must be reprinted to accommodate votes cast for any replacement candidate and shall take the appropriate action to accommodate the replacement of any candidate. If the county clerk determines that the name of any replacement candidate cannot be accommodated on the existing ballot or ballot cards and if there is insufficient time before the election to reprint the entire ballot, the county clerk shall request approval to use supplemental paper ballots for voting for that office only in the same manner as permitted for other situations as provided in KRS 118.215(5), and, if approved, shall have an adequate number of supplemental paper ballots printed for voting for that office and only votes cast for that office by means of the supplemental paper ballots shall be tabulated and recorded by the precinct election officers and county board of elections. All actions by a county clerk, the State Board of Elections, and the Secretary of State which are necessary to provide for voting at a regular election for candidates nominated pursuant to KRS 118.105(5) shall be carried out with all possible speed. When a candidate has been replaced as provided in KRS 118.105(5) after absentee ballots have been printed and distributed for the regular election, neither the precinct election officers nor the county board of elections shall tabulate or record any absentee votes cast for the candidate who was replaced. If ballots are reprinted or supplemental paper ballots are printed, the costs for the printing shall be paid by the political party who has nominated a replacement candidate, or proportionately by each political party if each party nominates a replacement candidate;~~

~~(i)~~] Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, if the certificate of nomination of the electors has been filed with the Secretary of State within the time prescribed in this chapter;

(i)[~~(j)~~] Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210; and

(j)[~~(k)~~] Candidates for city office for which no nonpartisan primary has been conducted in a city which requires nonpartisan city elections.

(2) Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

(3) Candidates for members of boards of education shall have their names printed on ballot labels and absentee ballots for the regular election only after filing as provided in KRS 160.220.

(4) Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and absentee ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(5) No county clerk shall knowingly cause to be printed, upon the ballot labels or absentee ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in subsection (1) of KRS 118.315.

(6) The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.

(7) When a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy.

HB 233, AN ACT relating to school board elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.190 is amended to read as follows:

[~~(1)~~]Any vacancy in any board of education shall be filled by the chief state school officer within ninety (90) days after the vacancy occurs. The member so chosen shall meet the eligibility requirements as established by KRS 160.180 and shall hold office until his successor is elected and has qualified. The local board of education may make nominations and any person may nominate himself or another for the office.

[~~(2) Any vacancy having an unexpired term of one (1) year or more at the next regular November election after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the chief state school officer to fill the vacancy.~~]

Section 2. KRS 160.210 is amended to read as follows:

(1) (a) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(b) If no candidate files a petition of nomination for a local board of education opening pursuant to KRS 118.315[~~ and 118.316~~], the chief state school officer shall fill the new term of office ***for all openings that have no candidate filings under KRS 118.315*** by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts, a change in territory due to annexation, or to allow compliance with KRS 117.055(2).

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school

district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

The Committee Substitute to **HB 233** is as follows:

HB 233, AN ACT relating to school board elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.190 is amended to read as follows:

(1) Any vacancy in any board of education shall be filled by the chief state school officer within ninety (90) days after the vacancy occurs. The member so chosen shall meet the eligibility requirements as established by KRS 160.180 and shall hold office until his successor is elected and has qualified. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) Any vacancy having an unexpired term of one (1) year or more at the next regular November election after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the chief state school officer to fill the vacancy.

(3) Notwithstanding KRS 117.265, no seat on a county or independent board of education shall be filled by a write-in candidate unless a second candidate, who has filed a petition as required under KRS Chapter 118, appears on the printed ballot for the seat at issue. If a candidate for a seat on a county or independent board of education dies, withdraws, or is removed from the ballot, and no other candidate remains on the printed ballot, no write-in vote shall be counted by the county board of elections and no person filing and receiving votes as a write-in candidate shall be elected by this method.

Section 2. KRS 160.210 is amended to read as follows:

(1) (a) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(b) If no candidate files a petition of nomination for a local board of education opening pursuant to KRS 118.315[~~and 118.316~~], the chief state school officer shall fill the new term of office ***for all openings that have no candidate filings under KRS 118.315*** by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts, a change in territory due to annexation, or to allow compliance with KRS 117.055(2).

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

The Committee on Transportation reported **HB 18, HB 38,** with Committee Substitute attached thereto, **HB 63, HB 124, HB 131,** with Committee Substitute attached thereto, **HB 219**, with Committee Substitute attached thereto, **HJR 3, HJR 7, HJR 25, HJR 28, HJR 55,** and **HJR 64** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 18, AN ACT relating to vehicle emissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-720 is amended to read as follows:

(1) A compliance certificate shall be issued for each vehicle which meets and passes the annual inspection requirements. An exemption certificate may be issued under conditions adopted by the issuing authority, except that vehicles registered to military personnel on active duty whose duty station is outside of a county where a vehicle exhaust testing program is implemented shall receive an exemption certificate. A certificate shall be issued to a vehicle only at an official emissions inspection station established and operated under a valid permit issued by the cabinet. All certificates shall be serially numbered or otherwise identified. Certificates shall be strictly accounted for by the issuing authority.

(2) No vehicle registered in counties required by the cabinet to have a vehicle emission control program shall have its registration renewed pursuant to KRS Chapter 186 without a valid compliance certificate or exemption certificate issued pursuant to KRS 224.20-710 to 224.20-765. Vehicles with state or official registration routinely operating in these counties shall be inspected at ***the same frequency as privately owned registered vehicles***[~~least once within each twelve (12) month period following the original registration~~].

HB 38, AN ACT relating to six year road plan projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.430 is amended to read as follows:

(1) It is the intent of the General Assembly to direct the cabinet to identify projects in the six (6) year road plan that may, in accordance with ***this subsection and subsection (2) of*** this section, be advanced from later years, to maximize the use of all funds available to the cabinet, and to plan for the historical precedent of projects being delayed due to unforeseen circumstances. ***It is also the intent of the General Assembly to allow state and local officials to request to postpone a project scheduled for funding in the first two (2) years of a six (6) year road plan in favor of advancing another project in the same county that is scheduled in the last four (4) years of the same six (6) year road plan that is of more importance to the affected city or county. In addition to the provisions of subsection (4) of this section***[~~ To accomplish the purpose of this section~~], the cabinet shall submit to the General Assembly, at the same time the six (6) year road plan is submitted, a list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the expected appropriations for the biennium, which can be advanced if additional money is received or if a project in the biennium is delayed.

(2) In addition to the list submitted by the cabinet under subsection (1) of the section, the cabinet shall develop a separate list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the actual biennial highway construction appropriation, which can be advanced if additional money is received or if a project in either year of the biennium is delayed. This list shall be reported to the Legislative Research Commission.

(3) Any project that is accelerated under subsections (1)***,***[~~ or~~] (2)***, or (5)*** of this section shall be reported to the Legislative Research Commission.

(4) ***After the effective date of legislation enacting a six (6) year road plan, local and state officials may request a project that is scheduled to be funded in the first two (2) years of the road plan be delayed in favor of advancing another project in the same county that is scheduled in the last four (4) years of the same six (6) year road plan because it is of more importance to the affected city or county. In order to request that a project be advanced under this subsection, local officials, in conjunction with the members of the General Assembly that represent the city or county, shall comply with the following conditions:***

(a) If the project is in a city and is scheduled for funding in the first two (2) years of a road plan, the mayor and all members of the governing body of the city shall be required to unanimously enact a resolution requesting the Transportation Cabinet to delay the project and advance another project scheduled for the city in the last four (4) years of the same road plan. The resolution shall also be required to be supported and signed by all members of the General Assembly that represent the city.

(b) If the project is located in a county and is scheduled for funding in the first two (2) years of a road plan, the county judge/executive and all members of the fiscal court shall be required to unanimously enact a resolution requesting the Transportation Cabinet to delay the project and advance another project scheduled for the county in the last four (4) years of the same road plan. The resolution shall also be required to be supported and signed by all members of the General Assembly that represent the county.

(c) If the vote by local officials for the resolution is not unanimous and if support by the members of the General Assembly that represent the city or county is not unanimous, the project shall not be eligible to be advanced.

(d) A resolution adopted by a city or county and supported and signed by the members of the General Assembly that represent the city or county shall be submitted to the Secretary of the Transportation Cabinet within thirty (30) days of the date the resolution was adopted or the resolution shall be null and void.

(e) If the General Assembly fails to either enact a six (6) year road plan or fails to enact the last four (4) years of a plan, a project shall not be eligible to be advanced under this subsection.

(5) If the Secretary of the Transportation Cabinet receives a resolution that complies with the provisions of subsection (4) of this section, the secretary shall, upon receipt of the resolution, direct the appropriate employees to postpone the project originally scheduled for funding during the first two (2) years of a six (6) year road plan and advance the requested project in the same county that is in the last four (4) years of the same six (6) year road plan because it is of more importance to the affected city or county. Funding associated with the postponed project shall be shifted to the project advanced under this subsection. A project postponed under this subsection shall immediately be placed in the last four (4) years of the same six (6) year road plan, but may be included in the first two (2) years of the next succeeding six (6) year road plan submitted to the General Assembly at the discretion of the cabinet.

(6) The cabinet may change the fund source on any project in the six (6) year road plan to maximize the efficient use of federal funds.

(7)[~~(5)~~] The projects to be funded in the last four (4) years of the six (6) year plan shall not exceed revenue estimates provided by the Transportation Cabinet.

(8)[~~(6)~~] In developing the design, right-of-way, utility, and construction phase of each project, the following factors shall be considered but are not exclusive:

(a) Alignment of existing roads;

(b) The width or elevation of existing roadways and shoulder surfaces;

(c) The width of rights-of-way;

(d) The cost of each phase of the project plus a separate identification of the cabinet's administrative costs for each phase;

(e) The type and volume of traffic;

(f) The condition of structures and drainage;

(g) The accident rate;

(h) The geographic distribution of roadways to be constructed or reconstructed; and

(i) The social, economic, and environmental impact of the proposed project.

(9)[~~(7)~~] The six (6) year road plan shall designate the fiscal year each phase is scheduled to commence, a cost estimate for each phase, and a projected date for each phase to begin.

(10)[~~(8)~~] The Transportation Cabinet shall monthly transmit electronic data to the General Assembly through the Legislative Research Commission on all activity relating to all projects with open activity conducted by the Transportation Cabinet during the biennium. The data for each project shall contain all cabinet activity on projects funded through the road fund, including resurfacing and rural and secondary projects, and shall also include but not be limited to the following:

(a) District number and project item number, which shall remain in effect throughout the entire life of the project, subject to the following conditions:

1. A project split into more than one (1) project during its life shall maintain the same item number with a suffix;

2. Two (2) or more projects merged shall be identified by the new merged project maintaining the project item number of one (1) of the projects being merged. The total cost of the merged project shall be set forth; and

3. A project that has been merged with another project and all funds authorized for the initial project that is subsequently shifted to the new merged project shall remain in the six (6) year road plan and shall be identified with a cross reference to the superseded project and superseded project item number;

(b) The county name and county number;

(c) The route prefix, route number, and route suffix;

(d) Termini description including beginning milepoint and ending milepoint;

(e) Type of work;

(f) Length of the project in miles;

(g) Project authorization system number, date the project was authorized, the TD-10 number authorizing the project, and the amount authorized;

(h) Year the project was enacted in a six (6) year road plan, and the notation "A" if the project is active and the notation "I" if the project is inactive;

(i) The phase code "P" for the planning phase, "D" for the design phase, "R" for the right-of-way phase, "U" for the utility phase, and "C" for the construction phase;

(j) The original estimate, fund code, and fiscal year each phase is expected to begin as enacted in the six (6) year road plan;

(k) The current estimate, fund code, and fiscal year each phase is expected to begin;

(l) The status of funding for each phase;

(m) The date current information has been changed for each phase;

(n) The letting date for each phase;

(o) Total number of right-of-way parcels, deeds signed, suits filed, and right-of-way entries completed;

(p) The date right-of-way plans are to be submitted to the central office in Frankfort and the status of right-of-way plans;

(q) Total utility relocations to be completed and the actual number completed;

(r) The award date, the construction project code number, and the award amount for the construction phase;

(s) The total number of contract change orders issued for each phase, the date of the most recent change order, and the net change order amount for each phase;

(t) The name of the contractor, the contractor's vendor number in the Statewide Accounting and Reporting System (STARS), current contract amount, and the current amount earned by the contractor;

(u) The estimated date for completion of the project, current percentage of work completed based upon time, and the actual contract completion date;

(v) The department's engineer's estimate for the project; and

(w) Total expenditures by phase.

(11)[~~(9)~~] The department shall monthly transmit electronic data to the General Assembly through the Legislative Research Commission on the activity on all state resurfacing projects and all rural secondary projects that shall include as much applicable information as possible as identified in subsection (8) of this section.

(12)[~~(10)~~] The department shall pursue digitizing all Kentucky roads on a geographic information system as funds are made available by the General Assembly. The digitized maps shall merge map layers and text layers to produce maps that display geographic information and textual information detailing the six (6) year road plan as enacted by the General Assembly.

The Committee Substitute to **HB 38** is as follows:

HB 38, AN ACT relating to six year road plan projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.430 is amended to read as follows:

(1) It is the intent of the General Assembly to direct the cabinet to identify projects in the six (6) year road plan that may, in accordance ***this subsection and subsection (2) of*** with this section, be advanced from later years, to maximize the use of all funds available to the cabinet, and to plan for the historical precedent of projects being delayed due to unforeseen circumstances. ***It is also the intent of the General Assembly to allow state and local officials to request to postpone a project scheduled for funding in the first two (2) years of a six (6) year road plan in favor of advancing another project in the same county that is scheduled in the last four (4) years of the same six (6) year road plan that is of more importance to the affected city or county. In addition to the provisions of subsection (4) of this section***[~~ To accomplish the purpose of this section~~], the cabinet shall submit to the General Assembly, at the same time the six (6) year road plan is submitted, a list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the expected appropriations for the biennium, which can be advanced if additional money is received or if a project in the biennium is delayed.

(2) In addition to the list submitted by the cabinet under subsection (1) of the section, the cabinet shall develop a separate list of projects from the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the actual biennial highway construction appropriation, which can be advanced if additional money is received or if a project in either year of the biennium is delayed. This list shall be reported to the Legislative Research Commission.

(3) Any project that is accelerated under subsections (1)***,***[~~ or~~] (2)***, or (5)*** of this section shall be reported to the Legislative Research Commission.

(4) ***After the effective date of legislation enacting a six (6) year road plan, local and state officials may request a project that is scheduled to be funded in the first two (2) years of the road plan and for which money has not been expended to be delayed in favor of advancing another project in the same county that is scheduled in the last four (4) years of the same six (6) year road plan and for which money has not been expended because it is of more importance to the affected city or county. In order to request that a project be advanced under this subsection, local officials, in conjunction with the members of the General Assembly that represent the city or county, shall comply with the***

following conditions:

(a) If the project is in a city and is scheduled for funding in the first two (2) years of a road plan, the mayor and all members of the governing body of the city shall be required to unanimously enact a resolution requesting the Transportation Cabinet to delay the project and advance another project scheduled for the city in the last four (4) years of the same road plan. The resolution shall also be required to be supported and signed by all members of the General Assembly that represent the city.

(b) If the project is located in a county and is scheduled for funding in the first two (2) years of a road plan, the county judge/executive and all members of the fiscal court shall be required to unanimously enact a resolution requesting the Transportation Cabinet to delay the project and advance another project scheduled for the county in the last four (4) years of the same road plan. The resolution shall also be required to be supported and signed by all members of the General Assembly that represent the county.

(c) If the vote by local officials for the resolution is not unanimous and if support by the members of the General Assembly that represent the city or county is not unanimous, the project shall not be eligible to be advanced.

(d) A resolution adopted by a city or county and supported and signed by the members of the General Assembly that represent the city or county shall be submitted to the Secretary of the Transportation Cabinet within thirty (30) days of the date the resolution was adopted or the resolution shall be null and void.

(e) If the General Assembly fails to either enact a six (6) year road plan or fails to enact the last four (4) years of a plan, a project shall not be eligible to be advanced under this subsection. If any state or federal funds, regardless of the amount, have been expended on any phase of a project the project shall not be eligible to be advanced under this section.

(5) If the Secretary of the Transportation Cabinet receives a resolution that complies with the provisions of subsection (4) of this section, the secretary shall, upon receipt of the resolution, direct the appropriate employees to postpone the project originally scheduled for funding during the first two (2) years of a six (6) year road plan and advance the requested project in the same county that is in the last four (4) years of the same six (6) year road plan because it is of more importance to the affected city or county. Funding associated with the postponed project shall be shifted to the project advanced under this subsection. A project postponed under this subsection shall immediately be placed in the last four (4) years of the same six (6) year road plan, but may be included in the first two (2) years of the next succeeding six (6) year road plan submitted to the General Assembly at the discretion of the cabinet.

(6) The cabinet may change the fund source on any project in the six (6) year road plan to maximize the efficient use of federal funds.

(7)[~~(5)~~] The projects to be funded in the last four (4) years of the six (6) year plan shall not exceed revenue estimates provided by the Transportation Cabinet.

(8)[~~(6)~~] In developing the design, right-of-way, utility, and construction phase of each project, the following factors shall be considered but are not exclusive:

(a) Alignment of existing roads;

(b) The width or elevation of existing roadways and shoulder surfaces;

(c) The width of rights-of-way;

(d) The cost of each phase of the project plus a separate identification of the cabinet's administrative costs for each phase;

(e) The type and volume of traffic;

(f) The condition of structures and drainage;

(g) The accident rate;

(h) The geographic distribution of roadways to be constructed or reconstructed; and

(i) The social, economic, and environmental impact of the proposed project.

(9)[~~(7)~~] The six (6) year road plan shall designate the fiscal year each phase is scheduled to commence, a cost estimate for each phase, and a projected date for each phase to begin.

(10)[~~(8)~~] The Transportation Cabinet shall monthly transmit electronic data to the General Assembly through the Legislative Research Commission on all activity relating to all projects with open activity conducted by the Transportation Cabinet during the biennium. The data for each project shall contain all cabinet activity on projects funded through the road fund, including resurfacing and rural and secondary projects, and shall also include but not be limited to the following:

(a) District number and project item number, which shall remain in effect throughout the entire life of the project, subject to the following conditions:

1. A project split into more than one (1) project during its life shall maintain the same item number with a suffix;

2. Two (2) or more projects merged shall be identified by the new merged project maintaining the project item number of one (1) of the projects being merged. The total cost of the merged project shall be set forth; and

3. A project that has been merged with another project and all funds authorized for the initial project that is subsequently shifted to the new merged project shall remain in the six (6) year road plan and shall be identified with a cross reference to the superseded project and superseded project item number;

(b) The county name and county number;

(c) The route prefix, route number, and route suffix;

(d) Termini description including beginning milepoint and ending milepoint;

(e) Type of work;

(f) Length of the project in miles;

(g) Project authorization system number, date the project was authorized, the TD-10 number authorizing the project, and the amount authorized;

(h) Year the project was enacted in a six (6) year road plan, and the notation "A" if the project is active and the notation "I" if the project is inactive;

(i) The phase code "P" for the planning phase, "D" for the design phase, "R" for the right-of-way phase, "U" for the utility phase, and "C" for the construction phase;

(j) The original estimate, fund code, and fiscal year each phase is expected to begin as enacted in the six (6) year road plan;

(k) The current estimate, fund code, and fiscal year each phase is expected to begin;

(l) The status of funding for each phase;

(m) The date current information has been changed for each phase;

(n) The letting date for each phase;

(o) Total number of right-of-way parcels, deeds signed, suits filed, and right-of-way entries completed;

(p) The date right-of-way plans are to be submitted to the central office in Frankfort and the status of right-of-way plans;

(q) Total utility relocations to be completed and the actual number completed;

(r) The award date, the construction project code number, and the award amount for the construction phase;

(s) The total number of contract change orders issued for each phase, the date of the most recent change order, and the net change order amount for each phase;

(t) The name of the contractor, the contractor's vendor number in the Statewide Accounting and Reporting System (STARS), current contract amount, and the current amount earned by the contractor;

(u) The estimated date for completion of the project, current percentage of work completed based upon time, and the actual contract completion date;

(v) The department's engineer's estimate for the project; and

(w) Total expenditures by phase.

(11)[~~(9)~~] The department shall monthly transmit electronic data to the General Assembly through the Legislative Research Commission on the activity on all state resurfacing projects and all rural secondary projects that shall include as much applicable information as possible as identified in subsection (8) of this section.

(12)[~~(10)~~] The department shall pursue digitizing all Kentucky roads on a geographic information system as funds are made available by the General Assembly. The digitized maps shall merge map layers and text layers to produce maps that display geographic information and textual information detailing the six (6) year road plan as enacted by the General Assembly.

HB 63, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

(1) The circuit clerk shall, before issuing or renewing a Kentucky operator's license, verify through the National Drivers Register that the person applying for an initial or renewal Kentucky operator's license does not currently have his or her operator's license or driving privilege suspended or revoked in another licensing jurisdiction.

(2) If the person's operator's license or driving privilege is currently suspended or revoked in another licensing jurisdiction for a traffic offense where the conviction for the offense is less than five (5) years old, the circuit clerk shall not issue the person an initial or renewal Kentucky operator's license until the person resolves the matter in the other licensing jurisdiction and complies with the provisions of this chapter.

(3) A person whose operator's license has been suspended or revoked in another licensing jurisdiction, or the holder of a Kentucky operator's license whose driving privileges have been suspended in another licensing jurisdiction, may be issued a Kentucky license, or may renew a Kentucky license if:

(a) The conviction causing the suspension or revocation is more than five (5) years old; and

(b) The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense.

(4) A person issued a Kentucky operator's license in accordance with subsection (3) of this section shall be issued an operator's license marked "Valid in Kentucky Only" and shall sign a statement that the person understands that he or she may be subject to arrest and detention if stopped by a law enforcement officer in another state while operating a motor vehicle on this restricted license.

(5) If a person granted a license under subsection (3) of this section satisfies the requirements to have the suspension or revocation in another state lifted, the person shall apply to the circuit clerk to be issued a new license without the restrictions outlined in subsection (3) of this section.

(6) The provisions of subsection (3) of this section shall not apply to a commercial driver's license.

Section 2. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person who is not a resident of Kentucky;

(2) Any person under the age of sixteen (16);

(3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(4) Any person whose operator's license has been suspended, during the period of suspension*, subject to the limitations of Section 1 of this Act*;

(5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(6) Any applicant adjudged incompetent by judicial decree;

(7) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(8) Any person who is unable to understand highway warnings or direction signs in the English language;

(9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;

(12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or

(13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 3. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.

(g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(i) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.

(4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) *(a)* The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. ***The cabinet shall not suspend an operator's license under this paragraph if:***

1. The conviction causing the suspension or revocation is more than five (5) years old;

2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and

3. The license holder complies with the provisions of Section 1 of this Act.

(b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old[~~If a person so convicted is not the holder of a Kentucky operator's license~~], the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.

(c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(d) This subsection shall not apply to a commercial driver's license.

(6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

HB 124, AN ACT relating to motor carrier dimension limits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.222 is amended to read as follows:

(1) The secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13-1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;

(e) ***Excepted as provided for in paragraph (f) of this subsection,*** truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same***;***

(f) A vehicle or combination of vehicles that is one hundred two (102) inches wide or less and has a gross weight of not more than eighty thousand (80,000) pounds may be driven on any state highway, for a distance of up to fifteen (15) miles from an interstate exit, for the sole purpose of reaching the vehicle operator's residence and returning to the interstate highway.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

(5) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system,

and subject only to total gross weight provisions.

(6) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.

(7) Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.

(8) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.

(9) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally-maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally-maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

HB 131, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "MWPHGL" means a masonic order affiliated with the Most Worshipful Prince Hall Grand Lodges.

(2) The owner or lessee of a motor vehicle registered under the provisions of KRS 186.050(1) or (3)(a) may apply for a special MWPHGL license plate in the office of the county clerk in the county where the person lives. At the time the owner or lessee applies for a special MWPHGL license plate, the person shall include with the application the initial state fee of fifty dollars ($50). The county clerk shall inform the owner or lessee that the person's application and state fee shall be sent to Frankfort to the Transportation Cabinet where it may be held for a period not to exceed one (1) year while the cabinet is waiting to receive sufficient applications subject to the provisions of subsection (3) of this section. The person shall designate on the application form the specific MWPHGL where the proceeds from the person's purchase shall be credited for distribution under subsection (10) of this section.

(3) The Transportation Cabinet shall be required to begin designing and printing special MWPHGL license plates after the cabinet has received nine hundred (900) applications accompanied by a fifty dollar ($50) state fee within a one (1) year period. The purpose of the fifty dollar ($50) state fee is to offset computer programming costs incurred by the cabinet. Unless the cabinet is requested in writing to the contrary, if the cabinet has not received nine hundred (900) applications within one (1) year from the date the cabinet receives the first application for a special MWPHGL license plate, the cabinet shall refund the fifty dollar ($50) state fee to the appropriate applicants.

(4) Subject to the provisions of subsection (3) of this section, the total initial application fee for the first nine hundred (900) special MWPHGL license plates printed by the Transportation Cabinet shall be sixty-eight dollars ($68). The sixty-eight dollar ($68) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of fifty dollars ($50) that includes the state fee to reflectorize the license plate under KRS 186.240;

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining fifteen dollar ($15) fee collected from the applicant shall be remitted to the Transportation Cabinet to be used as provided in subsection (10) of this section.

(5) The initial application fee for each special MWPHGL license plate printed by the Transportation Cabinet in excess of nine hundred (900) shall be thirty dollars ($30). The thirty dollar ($30) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of twelve dollars ($12) that includes the state fee to reflectorize

the license plate under KRS 186.240;

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining fifteen dollar ($15) fee collected from the applicant shall be remitted to the Transportation Cabinet to be used as provided in subsection (10) of this section.

(6) A special MWPHGL license plate shall annually be issued a renewal registration decal during the owner's or lessee's birth month. The annual renewal fee shall be twenty dollars ($20) and shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of twelve dollars ($12) that includes the state fee to reflectorize the license plate under KRS 186.240;

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining five dollar ($5) fee collected from an applicant renewing an annual registration shall be remitted to the Transportation Cabinet to be used as provided in subsection (10) of this section.

(7) Except as provided in this subsection, the special MWPHGL license plate shall be replaced on the same schedule that regular license plates are replaced by the Transportation Cabinet under KRS 186.240. A special MWPHGL license plate shall be replaced free of charge if the metal plate is destroyed in an accident, the plate deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle issued the plate during the current licensing period.

(8) A person seeking a special MWPHGL license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050.

(9) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special MWPHGL license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee that includes the state fee to reflectorize the license plate under KRS 186.240 and a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special MWPHGL license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special MWPHGL license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to Frankfort.

(10) All funds received by the Transportation Cabinet under subsections (4)(c), (5)(c), and (6)(c) of this section shall be deposited into a MWPHGL program fund that is established in the state road fund. Money in the MWPHGL program fund shall be used as provided in this subsection. If at the end of a fiscal year money remains in the MWPHGL program fund, it shall be retained in the fund and used as provided in this subsection and shall not revert to the road fund. All interest and income earned on money in the MWPHGL program fund shall be retained by the Transportation Cabinet to help offset the costs associated with administering this subsection.

(a) At the end of each fiscal year the cabinet shall, after deducting interest and income earned during the year, disburse all funds remaining in the MWPHGL program fund to the Most Worshipful Prince Hall Grand Lodges of Kentucky, Inc. The lodges shall be responsible for distributing funds under this subsection among all MWPHGL chapters throughout the Commonwealth. The funds shall be used to foster literacy programs, offer computer training, and support community issues.

(b) The amount of money each MWPHGL shall receive under this subsection shall be proportionate to the amount of money contributed to the MWPHGL program fund from sales of the special MWPHGL license plates in the county where the MWPHGL is located.

(c) A person wishing to purchase a special MWPHGL license plate who lives in a county that does not have a MWPHGL chapter shall be permitted on the application form to designate the specific MWPHGL chapter where the proceeds from the person's purchase shall be credited for purposes of distribution under this subsection. The plate issued under this paragraph shall designate the county where the person's motor vehicle is registered, not the county where the MWPHGL chapter designated on the application form is located.

(11) Subject to limitations imposed by the cabinet, special MWPHGL license plates shall be the color and design selected by the Most Worshipful Prince Hall Grand Lodges of Kentucky, Inc. The lodges may select up to three (3) designs. The name "Kentucky" shall appear on the MWPHGL license plate and the cabinet may use any combination of letters or numerals as needed in the design.

The Committee Substitute to **HB 131** is as follows:

HB 131, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "MWPHGL" means a masonic order affiliated with the Most Worshipful Prince Hall

Grand Lodges.

(2) The owner or lessee of a motor vehicle registered under the provisions of KRS 186.050(1) or (3)(a) may apply for a special MWPHGL license plate in the office of the county clerk in the county where the person lives. The first nine hundred (900) persons to apply for a special MWPHGL license plate shall include with the application the state fee established in subsection (3) of this section and a three dollar ($3) county clerk fee. After the first nine hundred (900) persons apply for the special plate, each application shall be accompanied by the fee established in subsection (4) of this section. The county clerk shall inform the first nine hundred (900) applicants that the application and state fee shall be sent to the Transportation Cabinet in Frankfort where they shall be held for a period not to exceed one (1) year while the cabinet is waiting to receive sufficient applications subject to the provisions of subsection (3) of this section. Until the MWPHGL license plate is actually printed, the cabinet shall issue to each county clerk a monthly status report on the number of persons that have applied for the special plate, to enable the clerk to determine the appropriate application fee.

(3) If the Transportation Cabinet receives a minimum of nine hundred (900) applications accompanied by a fifty dollar ($50) state fee within one (1) year from the date the cabinet receives the first application for the special plate, the cabinet shall begin designing and printing special MWPHGL license plates. The purpose of the fifty dollar ($50) state fee is to offset computer programming costs incurred by the cabinet. If the cabinet does not receive nine hundred (900) applications within one (1) year from the date the cabinet receives the first application for a special MWPHGL license plate, the cabinet shall refund the fifty dollar ($50) state fee to the appropriate applicant and this section shall expire and be automatically repealed.

(4) After the minimum number of requests required under subsection (3) of this section has been achieved and the cabinet has printed the MWPHGL license plate, each initial applicant for the special plate, and each applicant applying to renew the special plate, shall pay a state fee of twelve dollars ($12) that includes the fee to reflectorize the license plate under KRS 186.240, and a county clerk fee of three dollars ($3). An applicant may also make a voluntary contribution of fifteen dollars ($15) that the county clerk shall remit quarterly to the Most Worshipful Prince Hall Grand Lodges of Kentucky, Inc., or its successor agency, to be used as established in subsection (9) of this section.

(5) A special MWPHGL license plate shall be a five (5) year plate and shall annually be issued a renewal registration decal during the owner's or lessee's birthmonth.

(6) A special MWPHGL license plate shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(7) A person seeking a special MWPHGL license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(8) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special MWPHGL license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special MWPHGL license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special MWPHGL license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(9) All funds received by the Most Worshipful Prince Hall Grand Lodges of Kentucky, Inc. under subsection (4) of this section shall be deposited into a separate account that shall be audited yearly at the expense of the lodges. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. Money in the account shall be used for public programs not limited to MWPHGL members that promote literacy, offer computer training, and support community issues.

(10) The name "Kentucky" shall appear on the MWPHGL license plate and the cabinet may use any combination of letters or numerals as needed in the design. Subject to any other necessary limitations imposed by the Transportation Cabinet, special MWPHGL license plates shall be the color and design developed by the Most Worshipful Prince Hall Grand Lodges of Kentucky, Inc.

HB 219, AN ACT relating to motor vehicle dealers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.030 is amended to read as follows:

(1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer, or a salesman of motor vehicles shall not engage in business in this state ***at any location*** without a license ***issued for that location*** as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle salesman, he shall secure a motor vehicle salesman's license in addition to a

license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.

(2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.

(6) The license fee for a calendar year, or part thereof, shall be as follows:

(a) For new motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof, plus one hundred dollars ($100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) For used motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(c) For motor vehicle leasing dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(d) For restricted motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(e) For motorcycle dealers, one hundred dollars ($100) for each office, branch, or agent thereof.

(f) For motor vehicle manufacturers, one hundred dollars ($100); and for each factory branch in this state, one hundred dollars ($100).

(g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.

(h) For motor vehicle salesmen, ten dollars ($10).

(i) For factory representatives, or distributor branch representatives, one hundred dollars ($100).

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed, the licensor shall endorse the change of location on the license. A licensee shall not be charged a fee for changing locations. A change of location shall require a new application. ***A licensee may conduct a temporary sale or display, not to exceed three (3) days in duration, at a location in the county of the licensee's established place of business if the temporary sale or display is permitted under an enabling ordinance enacted by the city, county, urban-county, or consolidated local government within whose boundaries the temporary sale or display is to be conducted. A temporary sale or display shall be advertised as temporary in nature and shall consist of a representative sampling of the inventory of each participating licensee.***

(8) Every salesman, factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse the change on the license without charge.

(9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars ($15,000), conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

The Committee Substitute to **HB 219** is as follows:

HB 219, AN ACT relating to motor vehicle dealers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.030 is amended to read as follows:

(1) A motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, automotive recycling dealer, or a salesman of motor vehicles shall not engage in business in this state ***at any location*** without a license ***issued for that location*** as provided in KRS 190.010 to 190.080. If a person acts as a motor vehicle salesman, he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer. The motor vehicle commission may provide by administrative regulation for other licensee activities and an appropriate fee.

(2) A manufacturer of motor vehicles, factory branch, distributor, distributor branch, or wholesaler shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(3) A factory representative or distributor representative shall not engage in business in this state without a license as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at a time, in a form, and containing information the licensor shall require and shall be accompanied by the required fee. The licensor may require in the application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which the applicant proposes to engage in business. The information may be considered by the licensor in determining the fitness of the applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within thirty (30) days after submission of a complete application and shall expire, unless revoked or suspended, on December 31 of the calendar year for which they are granted. If a complaint of unfair cancellation of dealer franchise is in the process of being heard, a replacement application for the franchise shall not be considered until a decision is rendered by the commission.

(6) The license fee for a calendar year, or part thereof, shall be as follows:

(a) For new motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof, plus one hundred dollars (\$100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) For used motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.

(c) For motor vehicle leasing dealers, one hundred dollars (\$100) for each office or branch or agent thereof.

(d) For restricted motor vehicle dealers, one hundred dollars (\$100) for each office or branch or agent thereof.

(e) For motorcycle dealers, one hundred dollars (\$100) for each office, branch, or agent thereof.

(f) For motor vehicle manufacturers, one hundred dollars (\$100); and for each factory branch in this state, one hundred dollars (\$100).

(g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.

(h) For motor vehicle salesmen, ten dollars (\$10).

(i) For factory representatives, or distributor branch representatives, one hundred dollars (\$100).

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and shall be conspicuously displayed there. If the location is changed, the licensor shall endorse the change of location on the license. A licensee shall not be charged a fee for changing locations. A change of location shall require a new application. ***A licensee may conduct a temporary sale or display if the temporary sale or display is permitted under an enabling ordinance enacted by the city, county, urban-county, or consolidated local government within whose boundaries the temporary sale or display is to be conducted. A temporary sale or display shall be advertised as temporary in nature and shall consist of a representative sampling of the inventory of each participating licensee.***

(8) Every salesman, factory representative, or distributor representative shall carry his license when engaged in business, and display it upon request. The license shall name his employer; and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse the change on the license without charge.

(9) If the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require the applicant or licensee to furnish and maintain a bond in a form, amount and with sureties not less than fifteen thousand dollars (\$15,000), conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the State of Kentucky for the benefit of any aggrieved parties, but the penalty of the bond shall not be invoked except after a court adjudication. The commission may promulgate administrative regulations to permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on conditions and

indemnity set forth in this subsection. The bonding requirements of this subsection shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the commission and contain information the commission may require. A motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall not be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at intervals and show information the licensor may require.

HJR 3, A JOINT RESOLUTION honoring and memorializing Tony Turner of Hazard, Kentucky.

The mountains are shrouded in fog -- tears from heaven over the loss

of one of our native sons, Tony Turner of Hazard, Kentucky.

WHEREAS, a brilliant young life was extinguished on June 30, 2002, when Tony Turner of Hazard, Kentucky crossed that final bourne from which no traveler returns; and

WHEREAS, on June 10, 2002, while returning from Williamsburg, Kentucky where he had filed a live report, Tony Turner's vehicle was struck head-on; and

WHEREAS, Tony Turner struggled for three weeks before he died of injuries suffered in the crash; and

WHEREAS, a Harlan County native, Tony Turner grew up in a coal camp and began his broadcasting career at WFSR radio in Harlan; and

WHEREAS, Tony Turner served as general manager of WFSR from 1976 until 1986 when he moved from radio to television and joined the staff of WYMT-TV; and

WHEREAS, a dedicated employee, Tony Turner worked as a general assignment reporter for about a year before he was named news director and anchor of the six o'clock news program - a position he held for sixteen years; and

WHEREAS, Tony Turner was named station manager and vice-president for WYMT-TV in 2001; and

WHEREAS, Tony Turner also anchored a show for many years called "Issues and Answers...The Mountain Edition" that featured guests from all walks of life, including local mayors and former presidents; and

WHEREAS, the forty year old was a devoted husband to his wife Geraldine and the loving father of two; and

WHEREAS, in addition to his family, Tony Turner is mourned by his audience, his employees, and his countless friends;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, posthumously proclaim Tony Turner to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name United States Route 421 from the city of Harlan in Harlan County to the city of Hyden in Leslie County, the "Tony Turner Memorial Highway."

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on United States Route 421 from the city of Harlan in Harlan County to the city of Hyden in Leslie County, that read the "Tony Turner Memorial Highway."

HJR 7, A JOINT RESOLUTION naming "The Ferguson Brothers Highway" in Morgan and Johnson Counties.

WHEREAS, there is no greater honor than to serve your country during times of war and no family has made a greater contribution to protecting the freedoms the United States was founded upon than the Ferguson family from Morgan County; and

WHEREAS, during World War II, G. Barnes and Louella Smith Ferguson sent their four sons, Arlen, Foster, Okla, and Donald, off to defend our way of life; and

WHEREAS, Okla Ferguson served in the Army Air Force in the South Pacific Theater fighting the Japanese; and

WHEREAS, Donald Ferguson served in the United States Marine Corps, and he also fought the Japanese in the South Pacific Theater; and

WHEREAS, Arlen Ferguson served in the Eighth Infantry Division, General Hodge's First Army, where he fought in America's triumph over the German Army in the Battle of the Bulge; and

WHEREAS, Foster Ferguson served in the Fifth Infantry Division, General Patton's Third Army, which also fought in the Battle of the Bulge; and

WHEREAS, more than half a century after the Battle of the Bulge, history stands in awe of the courage, sacrifice, and extraordinary determination of the more than 600,000 U.S. soldiers and airmen who fought in that epic battle; and

WHEREAS, even though the Battle of the Bulge marked the beginning of the end for Hitler's Nazi regime, the victory came at a horrendous price with over 19,000 Americans dead and thousands more wounded, captured, or missing in action; and

WHEREAS, while serving in Germany, Arlen Ferguson was awarded the Combat Infantry Badge, Silver Star for gallantry in action and above the call of duty, the Bronze Star Medal, and four Purple Hearts for wounds he received in action; and

WHEREAS, upon being discharged from the Army, Arlen Ferguson tirelessly worked for veterans causes and his personal efforts were instrumental in Congress enacting the War Orphans' Education Act, as well as the Direct Home Loan program under the G.I. bill which lends money at low interest rates to honorably discharged veterans to help them purchase a home; and

WHEREAS, if it had not been for the spirit, fortitude, valor, and resolve of Arlen, Foster, Okla, and Donald Ferguson, in addition to the thousands of men and women who fought during World War II, Americans would not be able to enjoy the many freedoms that today far too many of us take for granted; and

WHEREAS, all Kentuckians need to express their profound gratitude to the Ferguson Brothers and to all veterans -- for their service, sacrifice, and achievements will live forever in our hearts and memories;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body proudly declare Arlen Ferguson and Foster Ferguson to be outstanding citizens and exemplary representatives of the Commonwealth and posthumously bestow the declaration upon Okla Ferguson and Donald Ferguson.

Section 2. The Transportation Cabinet shall name Kentucky Route 172 in Morgan and Johnson Counties "The Ferguson Brothers Highway."

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on Kentucky Route 172 in Morgan and Johnson Counties that read "The Ferguson Brothers Highway."

HJR 25, A JOINT RESOLUTION naming the bridge in Lyon County on Kentucky Route 453 that crosses the Barkley Canal.

WHEREAS, in the early 1960's, the Cumberland and Tennessee Rivers were impounded to create Kentucky Lake and Lake Barkley, resulting in the formation of a 170,000 acre inland peninsula that was designated by President John F. Kennedy as the Land Between The Lakes National Recreation Area; and

WHEREAS, the creation of the Land Between The Lakes National Recreation Area has led to the region enjoying a $600 million dollar tourism industry, with an average of two million visitors each year who come from all across the United States, as well as 30 foreign countries; and

WHEREAS, while no one disputes the economic benefits Land Between The Lakes has brought to West Kentucky, the impoundment of the land itself resulted in the forced eviction of many families who had lived in the area for generations; and

WHEREAS, prior to the creation of the Land Between The Lakes, the area was locally known as "between the rivers"; and

WHEREAS, between the rivers was home to many families with ties back to the Revolutionary War; and

WHEREAS, these families were not only farmers but worked in the one of the seventeen iron furnaces that operated between the rivers; and

WHEREAS, the Center Furnace and the Great Western Iron Furnace that operated between the rivers are now on the National Register of Historic Places, as is the site of a major Civil War battle known as Fort Henry; and

WHEREAS, the contributions of the generations of Kentuckians that lived between the rivers are immeasurable; and

WHEREAS, it is only fitting that the state recognize the sacrifices of, and the difficulties faced by, the individuals and families who lost their ancestral homes in the creation of Land Between The Lakes;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge in Lyon County located on Kentucky Route 453 which crosses Barkley Canal (Bridge Number B00020) the "Between the Rivers Memorial Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each approach to the bridge in Lyon County located on Kentucky Route 453 which crosses Barkley Canal (Bridge Number B00020) that read "Between the Rivers Memorial Bridge."

HJR 28, A JOINT RESOLUTION honoring former Bracken County Judge/Executive Dwayne "Pie" Jett.

WHEREAS, Dwayne "Pie" Jett has ably served the citizens of Bracken County for over 30 years in various civil service and elected positions; and

WHEREAS, Dwayne "Pie" Jett served as Bracken County Sheriff from 1970 to 1974 and from 1978 to 1982; and

WHEREAS, Dwayne "Pie" Jett served five consecutive terms as Bracken County Judge/Executive from 1982 to 2002; and

WHEREAS, Dwayne "Pie" Jett, upon the occasion of his retirement, should be honored for his years of outstanding service and leadership;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, proclaim Dwayne "Pie" Jett to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name Kentucky Route 19 from Kentucky Route 10 to the AA Highway the 'Dwayne "Pie" Jett Highway.'

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs on the route identified in Section 2 of this Resolution that read the 'Dwayne "Pie" Jett Highway.'

HJR 55, A JOINT RESOLUTION renaming the Paris By-Pass in Bourbon County.

WHEREAS, the term "thoroughbred" describes a breed of horse whose ancestry traces back to three foundation sires -- the Darley Arabian, the Godolphin Arabian, and the Byerly Turk; and

WHEREAS, known for their beauty and grace, thoroughbreds are also renowned around the world as a breed that can carry weight with sustained speed over extended distances; and

WHEREAS, thoroughbreds are recognized for their superior breeding and over three hundred years have proven their excellence at the race track; and

WHEREAS, as racing was rapidly expanding across North America, Colonel Sanders D. Bruce, a Kentuckian who had spent almost a lifetime researching the pedigrees of American thoroughbreds, published the first volume of The American StudBook in 1873; and

WHEREAS, some of the thoroughbred champions of the twentieth century include Colin, Exterminator, Man o' War, Count Fleet, Citation, Native Dancer, Kelso, Secretariat, Forego, Seattle Slew, Affirmed, and Cigar; and

WHEREAS, Cigar currently is a resident of the Kentucky Horse Park's Hall of Champions; and

WHEREAS, the Kentucky Horse Park houses the National Horse Center which is a collection of top equine management associations and organizations that believe Kentucky is the ideal setting for their national and state offices; and

WHEREAS, because of Kentucky's rich and proud tradition of breeding and raising some of the finest thoroughbreds that have ever raced in the sport, the Kentucky Horse Park was the only site in the United States during the summer of 2000 that was selected to house the exhibit "Imperial China: The Art of the Horse in Chinese History" -- an exhibit that contained over 350 artifacts valued at more than $100 million dollars and which drew over 200,000 visitors; and

WHEREAS, the thoroughbred industry is a cornerstone of Kentucky's economy, as well as of the Commonwealth's history;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to rename the Paris By-Pass in Bourbon County the "Thoroughbred Run."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the Paris By-Pass that read "Thoroughbred Run."

HJR 64, A JOINT RESOLUTION naming the General Burnside Memorial Bridge.

WHEREAS, General Ambrose E. Burnside was the military commander of a camp established in Pulaski County in the early 1860's during the Civil War; and

WHEREAS, extensive fortifications and defensive positions were built at the camp at the direction of General Burnside; and

WHEREAS, the site of the camp was called "Point Burnside" and "Camp Burnside" and later the City of Burnside was located and built on the site in honor of General Ambrose E. Burnside; and

WHEREAS, the Burnside City Council unanimously supports naming a bridge in honor of General Burnside, as well as 300 citizens who have signed petitions supporting the naming of the bridge;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge located 7.5 miles south of the intersection of Kentucky Route 80 and United States Route 27 that crosses the North Fork of the Cumberland River in the City of Burnside, Pulaski County, Kentucky the "General Burnside Memorial Bridge."

Section 2. The Transportation Cabinet shall within thirty days of the effective date of this Resolution erect signs that read "General Burnside Memorial Bridge" at each approach to the bridge located 7.5 miles south of the intersection of Kentucky Route 80 and United States Route 27 that crosses the North Fork of the Cumberland River in the City of Burnside, Pulaski County, Kentucky.

The Committee on Economic Development reported **HB 267** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 267, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Department for Regional Development is created within the Cabinet for Economic Development. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall:

(1) Administer existing programs, including the Local Government Economic Development Program as set forth in KRS 42.4588;

(2) Develop new programs; and

(3) Identify opportunities to help diversify local economies by creating an environment more conducive to business activity.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Offices of the Deputy Secretaries.

(g) Office of General Counsel.

(h) Division of Kentucky State Medical Examiners Office.

(i) Parole Board.

  (j) Kentucky State Corrections Commission.
  (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
  (a) Department of Education.
    (1) Kentucky Board of Education.
  (b) Department for Libraries and Archives.
  (c) Kentucky Arts Council.
  (d) Kentucky Educational Television.
  (e) Kentucky Historical Society.
  (f) Kentucky Teachers' Retirement System Board of Trustees.
  (g) Kentucky Center for the Arts.
  (h) Kentucky Craft Marketing Program.
  (i) Kentucky Commission on the Deaf and Hard of Hearing.
  (j) Governor's Scholars Program.
  (k) Governor's School for the Arts.
  (l) Operations and Development Office.
  (m) Kentucky Heritage Council.
  (n) Kentucky African-American Heritage Commission.
  (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
  (a) Environmental Quality Commission.
  (b) Kentucky Nature Preserves Commission.
  (c) Department for Environmental Protection.
  (d) Department for Natural Resources.
  (e) Department for Surface Mining Reclamation and Enforcement.
  (f) Office of Legal Services.
  (g) Office of Information Services.
  (h) Office of Inspector General.
4. Transportation Cabinet:
  (a) Department of Highways.
    1. Office of Program Planning and Management.
    2. Office of Project Development.
    3. Office of Construction and Operations.
    4. Office of Intermodal Programs.
    5. Highway District Offices One through Twelve.
  (b) Department of Vehicle Regulation.
  (c) Department of Administrative Services.
  (d) Department of Fiscal Management.
  (e) Department of Rural and Municipal Aid.
  (f) Department of Human Resources Management.
  (g) Office of the Secretary.
  (h) Office of General Counsel and Legislative Affairs.
  (i) Office of Public Affairs.
  (j) Office of Transportation Delivery.
  (k) Office of Minority Affairs.
  (l) Office of Policy and Budget.
  (m) Office of Technology.
  (n) Office of Quality.

5. Cabinet for Economic Development:
   (a) Department of Administration and Support.
   (b) Department for Business Development.
   (c) Department of Financial Incentives.
   (d) Department of Community Development.
   (e) ***Department for Regional Development.***
   (f) Tobacco Research Board.
   (g)[~~(f)~~] Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.
   (h) Kentucky Racing Commission.
   (i) Board of Claims.
   (j) Crime Victims Compensation Board.
   (k) Kentucky Board of Tax Appeals.
   (l) Backside Improvement Commission.
   (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
   (n) Department of Charitable Gaming.
   (o) Mine Safety Review Commission.
7. Cabinet for Families and Children:
   (a) Department for Community Based Services.
   (b) Department for Disability Determination Services.
   (c) Public Assistance Appeals Board.
   (d) Office of the Secretary.
      (1) Kentucky Commission on Community Volunteerism and Service.
   (e) Office of the General Counsel.
   (f) Office of Program Support.
   (g) Office of Family Resource and Youth Services Centers.
   (h) Office of Technology Services.
   (i) Office of the Ombudsman.
   (j) Office of Performance Enhancement.
   (k) Office of Human Resource Management.
8. Cabinet for Health Services.
   (a) Department for Public Health.
   (b) Department for Medicaid Services.
   (c) Department for Mental Health and Mental Retardation Services.
   (d) Kentucky Commission on Children with Special Health Care Needs.
   (e) Office of Certificate of Need.
   (f) Office of the Secretary.
   (g) Office of the General Counsel.
   (h) Office of Program Support.
   (i) Office of the Inspector General.
   (j) Office of Aging Services.

9. Finance and Administration Cabinet:
   (a) Office of Financial Management.
   (b) Office of the Controller.
   (c) Department for Administration.
   (d) Department of Facilities Management.
   (e) State Property and Buildings Commission.
   (f) Kentucky Pollution Abatement Authority.
   (g) Kentucky Savings Bond Authority.
   (h) Deferred Compensation Systems.
   (i) Office of Equal Employment Opportunity Contract Compliance.
   (j) Office of Capital Plaza Operations.
   (k) County Officials Compensation Board.
   (l) Kentucky Employees Retirement Systems.
   (m) Commonwealth Credit Union.
   (n) State Investment Commission.
   (o) Kentucky Housing Corporation.
   (p) Governmental Services Center.
   (q) Kentucky Local Correctional Facilities Construction Authority.
   (r) Kentucky Turnpike Authority.
   (s) Historic Properties Advisory Commission.
   (t) Kentucky Tobacco Settlement Trust Corporation.
   (u) Eastern Kentucky Exposition Center Corporation.
10. Labor Cabinet:
   (a) Department of Workplace Standards.
   (b) Department of Workers' Claims.
   (c) Kentucky Labor-Management Advisory Council.
   (d) Occupational Safety and Health Standards Board.
   (e) Prevailing Wage Review Board.
   (f) Workers' Compensation Board.
   (g) Kentucky Employees Insurance Association.
   (h) Apprenticeship and Training Council.
   (i) State Labor Relations Board.
   (j) Kentucky Occupational Safety and Health Review Commission.
   (k) Office of Administrative Services.
   (l) Office of Information Technology.
   (m) Office of Labor-Management Relations and Mediation.
   (n) Office of General Counsel.
   (o) Workers' Compensation Funding Commission.
   (p) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
   (a) Department of Property Valuation.
   (b) Department of Tax Administration.
   (c) Office of Financial and Administrative Services.
   (d) Department of Law.
   (e) Department of Information Technology.
   (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
   (a) Department of Travel.

(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) The State Board for Proprietary Education.
(h) The Foundation for Adult Education.
(i) Department for Training and Reemployment.
(j) Office of General Counsel.
(k) Office of Communication Services.
(l) Office of Workforce Partnerships.
(m) Office of Workforce Analysis and Research.
(n) Office of Budget and Administrative Services.
(o) Office of Technology Services.
(p) Office of Quality and Human Resources.
(q) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.

10. Education Professional Standards Board.

Section 3. The General Assembly confirms Resolution 02-1 of the Kentucky Economic Development Partnership, relating to the creation of the Department for Regional Development, to the extent it is not otherwise confirmed or superseded by this Act, this resolution having been made by the Kentucky Economic Development Partnership under the powers and authorities granted to the partnership by KRS 154.10-010, 154.10-030, and 12.028.

Calendar

HB 5, 43, 54, 78, 157, 181, 28, 40, 49, 88, 140, 223, HCR 15, 20, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, HB 70, 75, 139, 21, 52, 67, 72, 145, and **168** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 5, 21, 43, 49, 54, 72, 78, 157, 168, 181, HCR 15, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43,** and **44** have been posted for passage in the Orders of the Day for February 7, 2003.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 40**

Judiciary: **HB 70**

Representative Burch moved to withdraw **HB 111** and **HB 202**. Agreed.

Representative Denham moved that the rules be suspended to act on a Resolution. Agreed.

Representative Denham moved the adoption of the following **HR 108**:

HR 108, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Shirley Kay Fetters.

With deepest respect and admiration, we pay homage and tribute to Shirley Kay Fetters, and we pause in silent reverence for her soul.

WHEREAS, Shirley Kay Fetters was born on January 3, 1963, a native of Maysville, Mason County, Kentucky, and she traversed these earthly bounds on February 2, 2003; and

WHEREAS, Shirley Kay Fetters was the loving daughter of Betty Arthur Rankins of Petersville and the late Edward Rankins Jr.; she was the devoted wife of Larry D. Fetters; she was the adored sister of a brother, Terry Edward Rankins of Tollesboro, and two sisters, Sue Harris and Karen Ross, both of Vanceburg; and she was the proud aunt of several nieces and nephews; and

WHEREAS, Shirley Kay Fetters was an esteemed member of the Mason County community where she was a devout member of Highland Christian Church, and she served as administrative assistant to the president of Maysville Community College; and

WHEREAS, the premature passing of Shirley Kay Fetters has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its most profound sense of loss and bereavement upon the premature passing of Shirley Kay Fetters, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Shirley Kay Fetters.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Larry D. Fetters, 3036 Moyer Road, Maysville, Kentucky 41056.

There being no objection, **HR 108** was adopted.

Representative Bruce moved to withdraw **HB 332**. Agreed.

Motions, Petitions, and Communications

Representative Ford moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 10**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Ronald Reagan Day in the State of Kentucky and pays tribute to this distinguished American who worked throughout his life serving freedom and advancing the public good through his efforts as an entertainer, Union leader, corporate spokesman, Governor of California, and President of the United States. Former President Reagan is further lauded for the honor and distinction with which he served for two terms as the 40th President of the United States, during which time he earned the confidence of three-fifths of the electorate and was victorious in 49 of the 50 states in the 1984 general election, a record which remains unsurpassed in the history of American presidential elections. Inaugurated in 1981 and inheriting a disillusioned nation shackled by rampant inflation and high unemployment, former President Reagan worked with great integrity in an attempt to restore accountability and common sense to Government, an effort which facilitated unprecedented economic expansion and opportunity; maintained a commitment to active social policy for the Nation's children, which led to lower crime and drug use in neighborhoods across America; worked tirelessly to prepare America's Armed Forces to win the Gulf War, continually upholding his vision of "peace through strength," which ultimately resulted in the end of the Cold War and the demise of the Soviet Union, guaranteeing basic human rights for millions of people; and, contributed richly to the restoration of pride in America, her values and those cherished by the free world. The members of this honorable body join with Representative Danny R. Ford in recognizing February 6, 2003, and subsequent yearly anniversaries thereafter as Ronald Reagan Day in most ardent appreciation of the leadership and vision with which he continually served his country over the course of his life and for the freedoms that he enabled us to maintain in this Nation. Done in Frankfort, Kentucky, this sixth day of February, in the year two thousand and three.

Legislative Citation No. 10 was adopted without objection.

Representative Napier moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Napier moved the adoption of the following **Legislative Citation No. 13**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in reverent memory of Ann Gellette Ballard Ferry and to respectfully join with Representative Lonnie Napier in expressing deepest sympathy to the Ferry and Ballard Families and to all who share in the tragic and untimely loss of this highly-regarded citizen on December 16, 2002. The daughter of Paul and Blanche Adams Ballard, she is survived by her parents; cherished husband, John Ferry; beloved sons, Jason and Greg; step-sons, Joshua and Jason; sisters, Terri, Penney and Paula; grandchildren, Hunter, Landon, Rachel and Reece; several nieces and nephews; and a host of other family members, friends and loved ones. This esteemed citizen, an employee of Toyota Manufacturing Corporation in Georgetown, Kentucky; former member of the Camp Dick Volunteer Fire Department and EMT; and, a dedicated member of the Bryantsville Methodist Church, is remembered on this day for the many and generous contributions she made to her family, friends and community. Ann Gellette Ballard Ferry will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this sixth day of February, in the year two thousand and three.

Legislative Citation No. 13 was adopted without objection.

Representative Geveden moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 114, by Representatives Geveden, Richards, Thompson, Buckingham and Rasche: A RESOLUTION adjourning the House of Representatives in honor of our friend and colleague, Mike Cherry, upon the occasion of his sixtieth birthday.

Representative Geveden moved the adoption of the following **HR 114**:

HR 114, A RESOLUTION adjourning the House of Representatives in honor of our friend and colleague, Mike Cherry, upon the occasion of his sixtieth birthday.

WHEREAS, Mike Cherry was born on February 6, 1943, a native of Caldwell County, Kentucky, and today he celebrates his sixtieth birthday; and

WHEREAS, this august body has been informed on this day that Mike Cherry has personal possession of a vintage red Mustang convertible but, due to his age, he no longer rides with the top down because kids make fun of him; and

WHEREAS, this honorable body is also apprised of the fact that when Mike Cherry plays golf with a foursome, he has to leave Caldwell County because he "cheats like a bandit," and nobody at home will play with him; and

WHEREAS, even though he no longer has the thrill of riding in his vintage convertible and feeling his hair blowing in the breeze, and his game of golf is in quite some jeopardy, we wish to our friend and colleague on this day, February 6, 2003, a very happy sixtieth birthday; and

WHEREAS, Mike Cherry served his country with honor and distinction in the United States Navy, attaining the rank of Captain, and he also served during the Vietnam War; and

WHEREAS, since 1989, Mike Cherry has represented his constituents from the Fourth Representative District with pride, honesty, and dedicated service; he also is a successful businessman, and his extraordinary vision and leadership has brought light and inspiration to many lives; he is a true public servant, and has been involved in community service and local historic preservation for many years to the great benefit of Princeton; and the House of Representatives has had the good fortune of working with this fine legislator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby wish to our friend and colleague, Mike Cherry, a joyous sixtieth birthday.

Section 2. When the House of Representatives adjourns this day, February 6, 2003, it does so in honor of the occasion of the sixtieth birthday of Mike Cherry.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Mike Cherry.

There being no objection, **HR 114** was adopted.

Representative Belcher moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Belcher moved the adoption of the following **Legislative Citation No. 12**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in reverent memory of Basil Ewing Hayden, May 19, 1899-January 9, 2003, and to respectfully join Representative Carolyn Belcher in expressing deepest sympathy to the Hayden Family and to all who share in the loss of this remarkable gentleman. A graduate of Paris High School, Mr. Hayden played basketball for the University of Kentucky from 1919-1922, during which time he became a legendary Wildcat athlete and UK's first All-American player. This distinguished citizen honorably served in the United States Army during World War I, and after graduating UK, went on to coach basketball at his alma mater and at Kentucky Wesleyan College; sell insurance; do tax work; serve as a bank officer, a state bank examiner, and a hospital administrator; and, retired as the treasurer of the Interboard Council, Kentucky Conference of the Methodist Church. In addition, he was a dedicated member of Rotary International and Kappa Sigma fraternity; holds a place in the Paris High School Greyhound Hall of Fame; and had his jersey retired to the rafter of Rupp Arena. The son of the late Joseph Wallace and Annie Brown Hayden, he was preceded in death by first wife, Mary, and a granddaughter of the same name. He is survived by his cherished wife, Edna Lytle Hayden; daughter, Ann Lura; step-children, Janie, Betsy, and Bill; grandson, William; step-grandchildren, William, Allie, Laura, and Bart; great-grandchildren, Marshall, Olivia, Cora, Andrew, and Joseph; step-great-grandson, Jake; niece, Ann; nephew, Ellis; and, a host of other family members, friends, and loved ones. Basil Ewing Hayden will long be remembered for the many contributions he made to his family, friends and community and will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this sixth day of February, in the year two thousand and three.

Legislative Citation No. 12 was adopted without objection.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 357, by Representatives J. Lee and Weaver: AN ACT relating to water commissions.

HB 358, by Representatives Farmer, DeWeese, Upchurch, Crimm, Rader, S. Lee, Harmon, Bratcher, and Brinkman: AN ACT relating to income tax.

HB 359, by Representatives Walton and Marcotte: AN ACT relating to the Support Education Excellence in Kentucky Program.

HB 360, by Representatives Walton and Marcotte: AN ACT relating to the Support Education Excellence in Kentucky Program.

HB 361, by Representatives A. Arnold and Hoffman: AN ACT relating to provisional voting.

HB 362, by Representatives A. Arnold and Hoffman: AN ACT relating to elections, making an appropriation therefor, and declaring an emergency.

HB 363, by Representatives Horlander and A. Arnold: AN ACT relating to independent candidates.

HB 364, by Representatives A. Arnold and Gray: AN ACT relating to retirement.

HB 365, by Representative Haydon: AN ACT relating to the service of distilled spirits and wine.

HB 366, by Representative Haydon: AN ACT relating to souvenir retail liquor licenses.

HB 367, by Representative Haydon: AN ACT relating to highways.

HB 368, by Representative Haydon: AN ACT relating to private clubs.

HB 369, by Representatives Crall and Gooch: AN ACT relating to state risk.

HB 370, by Representatives Crall and Damron: AN ACT relating to state employee health insurance.

HB 371, by Representatives Hoffman and Webb: AN ACT relating to county jails.

HB 372, by Representatives Damron, Stumbo, and Gray: AN ACT relating to the Kentucky State Police, making an appropriation therefor, and declaring an emergency.

HB 373, by Representatives T. Thompson and Damron: AN ACT relating to rural electric cooperative corporations.

HB 374, by Representatives Harmon, Upchurch, and DeWeese: AN ACT proposing to amend the Constitution of Kentucky relating to taxes and expenditures.

HB 375, by Representatives Brinkman, Riggs, and Bratcher: AN ACT relating to noise barriers on highways.

HB 376, by Representatives DeWeese, Rasche, and Brinkman: AN ACT relating to library science scholarships.

HB 377, by Representatives Callahan and Fischer: AN ACT relating to code enforcement boards.

HB 378, by Representatives Denham and Comer: AN ACT relating to student health.

HB 379, by Representative Richards: AN ACT relating to insurance rate filings.

HB 380, by Representative Richards: AN ACT relating to family courts.

HJR 111, by Representative Stein: A JOINT RESOLUTION recognizing March 18, 2003, as "Gideon Day" throughout the Commonwealth of Kentucky.

HJR 112, by Representative McKee: A JOINT RESOLUTION honoring Howard J. Hoess of Pendleton County.

HCR 113, by Representatives Geveden, Rasche, Buckingham, Cherry, Nesler, and Gray: A CONCURRENT RESOLUTION supporting the efforts of the U.S. Enrichment Corporation as it pursues improvements in energy production through technological advances.

HCR 115, by Representatives Walton, Fischer, Kerr, Simpson, McKee, Draud, Marcotte, R. Adams, Reinhardt, Rand, and Callahan: A CONCURRENT RESOLUTION urging Congress to provide full funding of the TEA-21 reauthorization legislation and funding for the Brent Spence Bridge replacement project.

HJR 116, by Representative Nunn: A RESOLUTION petitioning the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

HR 117, by Representatives Belcher, Webb, J. Arnold, P. Clark, Meeks, Brinkman, Pasley, Damron, and Bratcher: A RESOLUTION declaring the month of May 2003, as Motorcycle Awareness Month.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 293, 37, 346**

Seniors, Military Affairs, and Public Safety: **HB 237, 242, 295, 309, 334**

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 17, Representative Meeks

HB 24, Representative Meeks

HB 29, Representatives Crimm, Bratcher, P. Clark, T. Thompson, and Upchurch

HB 40, Representative Moberly

HB 41, Representative Meeks

HB 61, Representative Gooch

HB 76, Representative Denham

HB 77, Representative Marzian

HB 88, Representative Marcotte

HB 99, Representatives Brinkman, L. Clark, DeWeese, and Marzian

HB 122, Representative Embry

HB 152, Representative Harmon

HB 153, Representative Harmon

HB 156, Representative Gooch

HB 163, Representative Marzian

HB 171, Representative Napier

HB 174, Representatives J. Adams, L. Clark, Haydon, Miller, Napier, and Vincent

HB 196, Representatives J. Arnold and Gooch

HB 205, Representative Burch

HB 214, Representative Simpson

HB 228, Representative Meeks

HB 237, Representative Upchurch

HB 242, Representative Jenkins

HB 243, Representative Simpson

HB 251, Representatives Feeley and Marcotte

HB 256, Representative Baugh

HB 281, Representative Rand

HB 289, Representative Marcotte

HB 315, Representatives Hall and Nelson

HB 320, Representatives Hall and Nelson

HB 325, Representative Nelson

HB 326, Representatives Hall and Nelson

HB 339, Representative Vincent

HB 346, Representative Comer

HB 359, Representative Fischer

HB 360, Representative Fischer

HB 374, Representative Fischer

HB 376, Representative Mobley

HCR 30, Representative Hall

HJR 3, Representatives Cornett and Hall

HJR 116, Representative Napier

HR 79, Representative Draud

HR 108, Representatives McKee and Webb

The following member filed a request to have his name withdrawn from co-sponsor of a Bill:

HB 240, Representative Meeks

Floor Amendments

Floor Amendment No. 1 to **HB 157**, by Representative R. Adams:

HB 157, On page 1, by deleting line 15 and inserting the following in lieu thereof:

"***and may be considered normal operating expenses of the agency; or, the agency may collect convenience fees from users to supplement agency costs of delivering services.***".

Announcements

The following meeting was announced:

Budget Review Subcommittee on Human Resources, Monday, February 10, 2003, Room 149

Adjournment

Representative Stumbo moved that the House adjourn until 9 a.m. on Friday, February 7, 2003.

The motion that the House adjourn until 9 a.m., Friday, February 7, 2003, was adopted by voice vote.

FRIDAY, FEBRUARY 7, 2003

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Gary Straub, First Christian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bruce, Crenshaw, and Palumbo.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Thursday, February 6, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 382, by Representative Napier: AN ACT relating to metering of electricity.

HB 381, by Representatives Jenkins and Graham: AN ACT relating to crimes and punishments.

HB 383, by Representative Stumbo: AN ACT relating to the reorganization of the Justice Cabinet.

HB 384, by Representative Stumbo: AN ACT relating to the reorganization of the Department of State Police.

HB 385, by Representatives Brinkman and Bratcher: AN ACT relating to abortion.

HB 386, by Representative Denham: AN ACT relating to the agricultural development fund.

HB 387, by Representatives Graham, Coleman, and Jenkins: AN ACT relating to state employee layoffs.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 358**

Banking and Insurance: **HB 369, 379**

Education: **HB 354, 356, 359, 360, 376, 378**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 352, 353, 361, 362, 363, 374, HJR 116**

Health and Welfare: **HB 355**

Judiciary: **HB 380, HJR 111**

Labor and Industry: **HB 372**

Licensing and Occupations: **HB 365, 366, 368**

Local Government: **HB 357, 371, 377**

State Government: **HB 364, 370**

Tourism Development and Energy: **HB 373, HCR 113**

Transportation: **HB 367, 375, HJR 110, 112, HCR 115**

House Floor: **HR 109, 117**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 19, 20, 26, 79, 99, 110, 118, 192, 250**

Judiciary: **HB 246, 289**

Banking and Insurance: **HB 287, 25, 8, 142, 143**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 30, HB 46, HB 117, HB 206,** with Committee Substitute and Committee Amendment attached thereto, **HJR 13,** and **HCR 56** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 30, AN ACT relating to eligibility for high school diplomas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class the student was expected to graduate.

(4) A local board of education shall award a high school diploma to an honorably discharged veteran who was enrolled in, but did not complete, high school prior to being inducted into the United States Armed Forces during World War II*, as defined in KRS 40.010, or the Korean conflict,* as defined in KRS 40.010. Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding these diplomas.

(5) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

HB 46, AN ACT relating to a veterans' personal loan program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Department" means the Department of Veterans' Affairs; and

(b) "Veteran" means a person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under other than dishonorable conditions.

(2) A veterans' personal loan program trust fund is established to oversee and administer funds under the veterans' personal loan program.

(3) (a) To be eligible for a loan under the veterans' personal loan program, an applicant shall be a resident of, and living in, the Commonwealth on the date of the application.

(b) 1. As used in this paragraph, "qualified" means having met loan conditions established by an administrative regulation promulgated by the department. However, the term of a loan shall not exceed ten (10) years.

2. The department shall cause the veterans' personal loan program trust fund to lend a qualified veteran, deceased veteran's unremarried spouse, or deceased veteran's child not more than ten thousand dollars

($10,000), or a lesser amount established by an administrative regulation promulgated by the department, for:

a. The purchase of a home, business, or business property;

b. The education of a veteran, veteran's spouse, or veteran's child;

c. The payment of medical or funeral expenses; or

d. The consolidation of debt.

3. The department shall cause the veterans' personal loan trust fund to lend a qualified deceased veteran's remarried spouse or parent of a deceased veteran's child not more than ten thousand dollars ($10,000), or a lesser amount established by an administrative regulation promulgated by the department, for the education of the deceased veteran's child.

(c) No person shall receive a loan under this section in an amount that, when added to the balance of the person's existing loan, or loans, under this section, would result in a total indebtedness to the veterans' personal loan program trust fund of more than ten thousand dollars ($10,000), or a lesser amount established by an administrative regulation promulgated by the department.

(4) (a) The veterans' personal loan program trust fund shall:

1. Execute necessary instruments; and

2. Collect principal and interest.

(b) The veterans' personal loan program trust fund may:

1. Compromise indebtedness;

2. Sue and be sued;

3. Post bonds;

4. Write off indebtedness that it considers uncollectible;

5. Exercise the rights of an owner and mortgagee if a loan provided under this section is secured by a real estate mortgage;

6. Charge to a loan applicant loan expenses incurred under this section; and

7. a. Receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.

b. Funds received, which are not necessary for the operation of the veterans' personal loan program trust fund, shall remain with the department to finance other department operations.

(5) The department shall promulgate administrative regulations necessary to carry out the provisions of this section.

HB 117, AN ACT relating to war memorial commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 97.630 is amended to read as follows:

(1) Any city of the first class that has constructed a war memorial under the provisions of Chapter 23 of the Acts of 1922 shall have a memorial commission consisting of seven (7) members. Members shall be not less than twenty-five (25) years of age and shall be bona fide residents of the county in which the city is situated. Upon the expiration of the terms of the members of the commission appointed or elected under the provisions of Chapter 23 of the Acts of 1922, the remaining members of the commission shall elect members to succeed those whose terms have expired, to serve for terms of seven (7) years each, and annually thereafter members to succeed those whose terms have expired shall be elected for terms of seven (7) years each by the remaining members of the commission. Vacancies in the terms of members shall be filled by the remaining members of the commission. Members selected to fill vacancies shall serve for the unexpired term. The members of the commission shall serve without compensation, but shall be allowed their necessary expenses for travel when engaged on the business of the commission.

(2) A city of the second, third, fourth, fifth or sixth class that has constructed a war memorial under the provisions of Chapter 128 of the Acts of 1946, may, by ordinance, have a memorial commission consisting of fifteen (15) members. Members of the commission shall be nominated and appointed by the mayor and approved by the city legislative body. Five (5) of said members shall be appointed to serve five (5) years; five (5) members shall be appointed to serve six (6) years; and five (5) members shall be appointed to serve seven (7) years. Thereafter, members to succeed those whose terms have expired shall be elected by the remaining members of the commission for terms of *three (3)*[~~seven (7)~~] years. Vacancies in the terms of members shall be filled by the remaining members of the commission. Members selected to fill vacancies shall serve for the unexpired term. The members of the commission shall serve without compensation, but shall be allowed their necessary expenses for travel when engaged in the business of the commission.

HB 206, AN ACT providing for a Kentucky Support of Guard and Reserve Employers' Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) There is created a committee to be known as the Kentucky Support of Guard and Reserve Employers' Council, which shall be attached to the Office of the Adjutant General for administrative purposes only.

(2) The council shall be composed of the following:

(a) The secretary of the Kentucky Personnel Cabinet or the secretary's designee; and

(b) Seven (7) members appointed by the Governor, selected from a list of five (5) names submitted by each of the following organizations:

- *1. Associated Industries of Kentucky;*
- *2. The Kentucky Chamber of Commerce;*
- *3. The Kentucky Chapter of the National Federation of Independent Business;*
- *4. The Kentucky League of Cities;*
- *5. The Kentucky Association of County Officials;*
- *6. The Kentucky State AFL-CIO; and*
- *7. The Kentuckiana Chapter of Associated Builders and Contractors.*

(2) The Governor shall select one (1) of the appointed members as chairman.

(3) Initially, three (3) of the members shall be appointed to serve for a period of four (4) years, two (2) of the members shall be appointed to serve for a period of three (3) years, and two (2) of the members shall be appointed for a period of two (2) years. Thereafter, members shall be appointed for a period of four (4) years.

(4) Members shall serve without pay, and shall not be reimbursed for travel expenses.

(5) A majority of members shall constitute a quorum.

(6) The council shall meet as often as necessary, but it shall meet at least twice annually.

SECTION 2. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Support of Guard and Reserve Employers' Council shall, as its mission, educate employers, both public and private, in the importance of supporting the National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves by providing employee members with time off for training, and with job security during times of mobilization. The council may recommend solutions to employment problems encountered by members of the National Guard or military reserves who are mobilized, and it may offer proposed policy or statutory changes to deal with those problems.

(2) The Kentucky Support of Guard and Reserve Employers' Council shall augment the National Committee for Employer Support of the Guard and Reserve, but it shall not assume any of the duties or functions of the national Employer Support of the Guard and Reserve organization.

The Committee Substitute to **HB 206** is as follows:

HB 206, AN ACT providing for a Kentucky Support of Guard and Reserve Employers' Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) There is created a committee to be known as the Kentucky National Guard and Reserve Employers' Council, which shall be attached to the Office of the Adjutant General for administrative purposes only.

(2) The council shall be composed of the following:

(a) The secretary of the Kentucky Personnel Cabinet or the secretary's designee; and

(b) Seven (7) members appointed by the Governor, selected from a list of five (5) names submitted by each of the following organizations:

- *1. Associated Industries of Kentucky;*
- *2. The Kentucky Chamber of Commerce;*
- *3. The Kentucky Chapter of the National Federation of Independent Business;*
- *4. The Kentucky League of Cities;*
- *5. The Kentucky Association of Counties;*
- *6. The Kentucky State AFL-CIO; and*
- *7. The Kentuckiana Chapter of Associated Builders and Contractors.*

(2) The Governor shall select one (1) of the appointed members as chairman.

(3) Initially, three (3) of the members shall be appointed to serve for a period of four (4) years, two (2) of the members shall be appointed to serve for a period of three (3) years, and two (2) of the members shall be appointed to serve for a period of two (2) years. Thereafter, members shall be appointed for a period of four (4) years.

(4) Members shall serve without pay, and shall not be reimbursed for travel expenses.

(5) A majority of members shall constitute a quorum.

(6) The council shall meet as often as necessary, but it shall meet at least twice annually.

SECTION 2. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The Kentucky National Guard and Reserve Employers' Council shall, as its mission, educate employers, both public and private, in the importance of supporting the National Guard and the Army, Navy, Air Force, Marine Corps, and Coast Guard Reserves by providing employee members with time off for training, and with job security during times of mobilization. The council may recommend solutions to employment problems encountered by members of the National Guard or military reserves who are mobilized, and it may offer proposed policy or statutory changes to deal with those problems.

The Committee Amendment No. 1 Title to **HB 206** is as follows:

HB 206, Amend title to read as follows:

"AN ACT providing for a Kentucky National Guard and Reserve Employers' Council."

HJR 13, A JOINT RESOLUTION declaring February 6 as the annual "Safe Return Day" for individuals with Alzheimer's Disease in the Commonwealth of Kentucky.

WHEREAS, Alzheimer's disease causes millions of Americans to lose their ability to recognize familiar places and faces, and to become disoriented and lost in their neighborhoods or far from home; and

WHEREAS, this behavior can be dangerous and life-threatening to individuals with Alzheimer's disease and it is very stressful for caregivers; and

WHEREAS, the Safe Return Program of the Alzheimer's Association assists with the location, identification, and safe and timely return of individuals with Alzheimer's disease and related dementia who wander and become lost; and

WHEREAS, help is provided to reunite lost individuals with their caregivers across the nation through a network of community-based chapters, and registration in the national database of emergency phone numbers and photographs maintained by the Safe Return Program; and

WHEREAS, nationally, over 93,000 individuals with Alzheimer's disease have been registered with the Safe Return Program and the program has assisted over 7,400 individuals to return home safely; and

WHEREAS, public safety, law enforcement, emergency medical, and transit personnel are most likely to be called upon when a person with dementia or Alzheimer's disease has wandered; and

WHEREAS, we are proud of the professionalism of our law enforcement, public safety, emergency medical, and transit personnel, and we recognize and commend their efforts and sensitivity in dealing with individuals with Alzheimer's disease who have wandered; and

WHEREAS, more individuals who need assistance would be helped by the Safe Return Program; and

WHEREAS, the Safe Return Program should be incorporated into the training of public safety, emergency medical, and transit personnel to help them recognize the signs of Alzheimer's disease and dementia, communicate with these individuals, and provide them with needed assistance;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Governor is directed to proclaim February 6 of each year as "Safe Return Day" for individuals with Alzheimer's disease in the Commonwealth of Kentucky as a symbol of appreciation to all caregivers of individuals with Alzheimer's disease.

HCR 56, A CONCURRENT RESOLUTION directing a study of methods for enhancing the security of essential homeland security records.

WHEREAS, the terrorist attacks on September 11, 2001, alerted every state to the need to enhance its homeland security; and

WHEREAS, the Kentucky General Assembly has passed several pieces of legislation to enhance Kentucky's homeland security; and

WHEREAS, the General Assembly has not passed legislation to prevent some essential homeland security records from falling into the hands of terrorists;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish the Task Force on Homeland Security Records to study methods for enhancing the security of essential homeland security records.

Section 2. Ten members shall serve on the Task Force:

(1) The Senate Co-Chair of the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection who shall serve as a Co-Chair of the Task Force;

(2) A member of the Senate, appointed by the President of the Senate;

(3) A member of the Senate, appointed by the Minority Floor Leader of the Senate;

(4) The House Co-Chair of the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection who shall serve as a Co-Chair of the Task Force;

(5) A member of the House of Representatives, appointed by the Speaker of the House of Representatives;

(6) A member of the House of Representatives, appointed by the Minority Floor Leader of the House of Representatives;

(7) The Adjutant General of Kentucky;

(8) The Executive Director of Kentucky's Office for Security Coordination;

(9) The Attorney General, or the Attorney General's designee; and

(10) The Executive Director of the Kentucky Press Association, or the director's designee.

Section 3. The Task Force shall study methods for enhancing the security of essential homeland security records. These records include, but are not limited to, "public records" as defined in KRS 61.870 and pertaining to: criticality lists, vulnerability assessments, protective measures, counter measures, and needs assessments.

Section 4. The Task Force shall transmit a copy of its report and recommendations to the Legislative Research Commission no later than November 15, 2003.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Calendar

HB 68, 71, 77, 194, 270, HJR 16, HB 51, 66, 73, 107, 109, 132, 144, 154, 175, 232, 233, 18, 38, 63, 124, 131, 219, HJR 3, 7, 25, 28, 55, 64, and **HB 267** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 49 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HB 49** be passed.

On the roll call the vote was: **Yeas 86, Nays 0**. (See February 7, 2003, roll call on **HB 49** - Appendix.)

HB 49 was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 49** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 72 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 72** be passed.

On the roll call the vote was: **Yeas 88, Nays 1**. (See February 7, 2003, roll call on **HB 72** - Appendix.)

HB 72 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 78 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 78** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 7, 2003, roll call on **HB 78** - Appendix.)

HB 78 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 78** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 157, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of Floor Amendment No. 1 to **HB 157**. Agreed.

Representative R. Adams moved that **HB 157**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 7, 2003, roll call on **HB 157** - Appendix.)

HB 157, as amended, was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 157**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 168, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 168**. Agreed.

Representative Lindsay moved that **HB 168**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 7, 2003, roll call on **HB 168** - Appendix.)

Representative Lindsay moved the adoption of Committee Amendment No. 1 Title to **HB 168**. Agreed.

HB 168, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 168**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 181 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 181** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 7, 2003, roll call on **HB 181** - Appendix.)

HB 181 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 181** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 15, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HCR 15**. Agreed.

Representative Damron moved that **HCR 15**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 7, 2003, roll call on **HCR 15** - Appendix.)

HCR 15, by way of Committee Substitute, was adopted.

Representative Damron moved that the vote by which **HCR 15**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved to suspend the rules to act on the following Resolutions as a package vote: **HCR 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43,** and **44**. Agreed.

HCR 32, 33, 34, 35, 36, 37, 39, 40, 41, with Committee Substitute attached thereto, **42, 43,** and **44** taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that they be read by title only and placed upon their passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HCR 41**. Agreed.

Representative Stumbo moved that **HCR 32, 33, 34, 35, 36, 37, 39, 40, 41,** by way of Committee Substitute, **42, 43,** and **44** be adopted.

On the roll call the vote was: **Yeas 95, Nays 1**. (See February 7, 2003, roll call on **HCR 32, 33, 34, 35, 36, 37, 39, 40, 41,** with Committee Substitute, **42, 43,** and **44** - Appendix.)

HCR 32, 33, 34, 35, 36, 37, 39, 40, 41, by way of Committee Substitute, **42, 43,** and **44** were adopted.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Committee Reports.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HB 283, 298, 288, 258, 229, 162, 50**

Agriculture and Small Business: **HCR 84, 85, 86, 106, HB 280, 284, 305, 348, 343**

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 49**. Agreed.

Representative Ballard moved the adoption of the following **HR 109**:

HR 109, A RESOLUTION honoring Father Martin Mattingly upon the occasion of his imminent retirement.

WHEREAS, Father Martin Mattingly was born on April 24, 1925, a native of Owensboro, Daviess County, Kentucky; he attended high school through 10th grade at St. Francis in Owensboro, then completed high school and two years of college at Saint Mary's College in Lebanon, Marion County, Kentucky; after which time, he continued his education for six years at Saint Mary's Seminary and University in Baltimore, Maryland; and

WHEREAS, Father Martin Mattingly was ordained into the Priesthood by Bishop Francis Cotton on May 30, 1950; and

WHEREAS, Father Martin Mattingly's years of service have brought joy and enlightenment to parishioners of the Catholic faith, beginning as assistant to Father Pettit in Hickman, then as assistant to Father Anthony Thompkins in Hawesville; he was on the faculty for nine years at Brescia College; he was pastor at St. Anthony Church in Browns Valley, then was assigned to St. Leo's in Murray where he remained for twenty years, and where he also was Catholic Chaplain at Murray State University; he was assigned to St. Peter and Paul in Hopkinsville for two years, and to St. Francis DeSales in Paducah for six years; and since 1989, he has been assigned to Immaculate Conception in Earlington and Resurrection Church in Dawson Springs; and

WHEREAS, Father Martin Mattingly has dedicated his life to the Catholic Church and his Priesthood; he has been admired for his guidance and wisdom, and the parishioners he has served through the years have indeed been blessed to receive the peace and joy and kindness and generosity that Father Mattingly has so lovingly given; and

WHEREAS, Father Martin Mattingly will soon be leaving Immaculate Conception in Earlington and Resurrection Church in Dawson Springs to return to Owensboro to reside in the Bishop Cotton Priest Retirement Home;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby honor and applaud Father Martin Mattingly for his faithful service to God and for bringing all those he serves closer to God. On behalf of this body, best wishes and prayers of love and support are extended to Father Martin Mattingly upon his retirement.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Father Martin Mattingly upon the occasion of his imminent retirement.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Eddie Ballard for presentation to Father Martin Mattingly at the reception being held in his honor on Wednesday, February 12, 2003, at Immaculate Conception Church in Earlington.

There being no objection, HR **109** was adopted.

Representative Comer moved the adoption of the following **HR 49**:

HR 49, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cass Ross Walden.

With deepest respect and admiration, we pay homage and tribute to Cass Ross Walden, and we pause in silent reverence for his soul.

WHEREAS, Cass Ross Walden was born on February 6, 1903, a native of Monroe County, Kentucky, and longtime resident of Metcalfe County, and he traversed these earthly bounds on November 19, 2002; and

WHEREAS, Cass Ross Walden was the loving son of the late Kirk and Bertha Strode Walden, and he was also preceded in death by a brother, Raymond Walden; he was the devoted husband of Jessie Sawyer Walden; he was the loving father of a son, James Ross Walden of Edmonton, and a daughter, Wanda Burness of Rainier, Oregon; and he was the proud grandfather of three granddaughters, Jamie Gains of Dallas, Texas, Sara Evans of Rainier, Oregon, and Ann Walden Diamond of New Orleans, Louisiana, and four grandsons, Billy, John, and Tom Burness, all of Portland, Oregon, and Ross Walden of Bowling Green; and three great-grandchildren, Elizabeth, Danielle, and Braden Evans of Rainier, Oregon; and he was the loving brother of a sister, Pauline Klopp, and four brothers, David Walden, Bill Walden, Boyd Walden, and Herald Walden; and

WHEREAS, Cass Ross Walden will be remembered as an active and involved citizen, and a highly esteemed member of the Metcalfe County community where he was a member of Edmonton Baptist Church; he practiced law for thirty-two years, he served as circuit judge for Barren and Metcalfe counties for twenty years, and he served on the Public Service Commission for ten years; and

WHEREAS, Cass Ross Walden served his constituents from the thirty-seventh Legislative District with pride in the House of Representatives during the 1942 Session of the General Assembly, where he also served as House minority leader; and he ably represented the ninth Senatorial District during the 1944 and 1946 Sessions of the General Assembly; and

WHEREAS, the passing of Cass Ross Walden has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this honorable body do hereby express our profound sense of sorrow upon the passing of Cass Ross Walden, and extend to his family our most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Cass Ross Walden.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Jessie Sawyer Walden, 407 Muncie Court, Edmonton, Kentucky 42129.

There being no objection, HR **49** was adopted.

Representative Belcher moved the adoption of the following **HR 117**:

HR 117, A RESOLUTION declaring the month of May 2003, as Motorcycle Awareness Month.

WHEREAS, the safe operation of a motorcycle requires the use of special skills developed through a combination of training and experience, the use of good judgment, and a thorough knowledge of traffic laws and licensing requirements; and

WHEREAS, Kentucky has 120,000 individuals who have valid operator and chauffeur licenses with a motorcycle endorsement; and

WHEREAS, it is especially important that the citizens of our state be aware of motorcycles on the highways and recognize the importance of motorcycle safety; and

WHEREAS, all motorcycle organizations, clubs, dealerships, groups, and highway officials in our state should join with the Kentucky Motorcycle Safety Program and the Kentucky Motorcycle Association in actively promoting safe operations, increased rider training, improved licensing efforts, and motorist awareness; and

WHEREAS, during the month of May 2003, all highway users should unite in the safe sharing of roadways throughout the Commonwealth of Kentucky; and

WHEREAS, this special Motorcycle Awareness Campaign also encourages other motor vehicle operators to be cautious and observe these motorcycles, especially during the seasonal return of motorcycles to the Commonwealth's streets and highways;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby declare the month of May 2003, as Motorcycle Awareness Month, and we do hereby urge all citizens to develop a caring attitude toward sharing the road.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Carolyn Belcher for distribution to the proper authorities.

There being no objection, **HR 117** was adopted.

Representative Meeks moved the adoption of the following **Legislative Citation No. 14**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of Alpha Kappa Alpha Sorority, Inc. upon participating in "Alpha Kappa Alpha Day," celebrated at State Capitals across this great Nation. Founded in 1908 at Howard University as a vehicle to enrich the social and intellectual aspects of college life, the sorority's function throughout the years has become far more complex. Incorporated in 1913, Alpha Kappa Alpha became the channel through which selected college-trained women worked to improve the socioeconomic status of their cities, states, nations and the world. The members of this outstanding national public service organization now sit in on sessions of state legislatures in order to observe their legislators at work. Inasmuch as this exemplary sorority has long been committed to public service, sisterhood and scholarship, and does not support any political party line but is ever-vigilant regarding awareness of laws, programs and practices that affect the health, education and welfare of all citizens, especially African Americans, the members of this honorable body are delighted to join Representative Paul Bather, Representative Derrick W. Graham, and Representative Reginald K. Meeks in welcoming them to the Chambers of the Kentucky House of Representatives on this day. Further, expressions of gratitude are extended to these citizens for their interest and involvement in the legislative process. Done at Frankfort, Kentucky, this seventh day of February, in the year two thousand and three.

Legislative Citation No. 14 was adopted without objection.

Representative Napier moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Napier moved that he be recorded as voting "yea" on **HR 74**. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 388, by Representative Pullin: AN ACT relating to the discharge of a security interest.

HB 389, by Representatives Nesler and Stumbo: AN ACT relating to quarter horse racing.

HB 390, by Representatives Thomas, Wilkey, L. Clark, Stumbo, and Richards: AN ACT relating to the enforcement of the Tobacco Master Settlement Agreement, making an appropriation therefor and declaring an emergency.

HB 391, by Representatives Hoffman, Barrows, L. Clark, Pasley, Thomas, Denham, McKee, and Rand: AN ACT relating to the marketing of home-processed foods.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Labor and Industry: **HB 372**

Education: **HJR 8, HB 252, 271, 279, 341, 76, 199, 224**

Motions, Petitions, and Communications (Continued)

Representative DeWeese moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative DeWeese moved that he be recorded as voting "yea" on **HB 49, 72, 78, 157, 168, 181,** and **HCR 15**. Agreed.

Representative Stumbo moved that **HB 303** be reassigned to the Committee on Seniors, Military Affairs, and Public Safety. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills:

HB 26, Representative Westrom

HB 29, Representatives Brinkman, Dw. Butler, Comer, Couch, Crall, Pullin, Siler, B. Smith, and Stewart

HB 61, Representative Comer

HB 77, Representative T. Thompson

HB 78, Representative Buckingham and Hoffman

HB 180, Representative Westrom

HB 196, Representative Brinkman

HB 303, Representative Pullin

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 38**, by Representative Collins:

HB 38, On page 2, between lines 9 and 10, insert a new paragraph "*(a)*" to read as follows:

"***(a) A project considered for advancement under this subsection shall have the same fund source as the project to be delayed and shall be substantially similar in cost and schedule as the project to be delayed.***"; and

On page 2, line 10, delete "*(a)*" and insert in lieu thereof "*(b)*"; and

On page 2, line 17, delete "*(b)*" and insert in lieu thereof "*(c)*", and after the word "***county***" insert the words "***or multiple counties***"; and

On page 2, line 18, delete "***judge/executive***" and insert in lieu thereof "***judge/executives***"; and

On page 2, line 19, delete "***court***" and insert in lieu thereof "***courts***"; and

On page 2, line 21, after the word "***county***" insert "***or counties***"; and

On page 2, line 23, after the word "***county***" insert "***or counties***"; and

On page 2, line 24, On page 2, line 10, delete "*(c)*" and insert in lieu thereof "*(d)*"; and

On page 2, line 25, after the word "***city***" delete "***or***" and insert in lieu thereof a comma "***,***"; and

On page 2, line 26, after the word "***county***" insert "***, or counties***"; and

On page 2, line 27, delete "*(d)*" and insert in lieu thereof "*(e)*", and after the word "***city***" delete "***or***" and insert in lieu thereof a comma "***,***", and after the word "***county***" insert "***, or counties***"; and

On page 3, line 1, after the word "***city***" delete "***or***" and insert in lieu thereof a comma "***,***", and after the word "***county***" insert "***, or counties***"; and

On page 3, line 5, delete "*(e)*" and insert in lieu thereof "*(f)*"; and

On page 3, line 16, after the word "***city***" delete "***or***" and insert in lieu thereof a comma "***,***", and after the word "***county***" insert "***, or counties***".

Floor Amendment No. 1 to **HB 67**, by Representative Damron:

HB 67, On page 13, line 11 to place an opening bracket "[" following "(d)" and to strike through the remainder of the line; and

On page 13, lines 12 to 20 to strike through the text; and

On page 13, line 20, to place a closing bracket "]" at the end of that line; and

On page 13, line 21, to place brackets "[ ]" around and strike through "(e)"; and

On page 14, line 1, to insert "*(e)*" at the beginning of the line and to place brackets "[ ]" around and strike through "(f)"; and

On page 14, line 6, to insert "*(f)*" at the beginning of the line and to place brackets "[ ]" around and strike through "(g)"; and

On page 14, line 18, following "later than" to insert "*forty-five (45)*" and to place brackets "[ ]" around and strike through "thirty (30)"; and

On page 14, line 25, following "conducted" to insert "*by the Department of Criminal Justice Training*"; and

On page 15, line 2, to insert "*(g)*" at the beginning of the line and to place brackets "[ ]" around and strike through "(h)"; and

On page 15, line 25, to insert "*(h)*" at the beginning of the line and to place brackets "[ ]" around and strike through "(i)"; and

On page 16, line 2, to insert "*(i)*" at the beginning of the line and to place brackets "[ ]" around and strike through "(j)"; and

On page 16, line 7, to insert "*(j)*" at the beginning of the line and to place brackets "[ ]" around and strike through "(k)"; and

On page 16, line 7, to place an opening bracket following "The" at the beginning of the line and to strike through the remainder of that line; and

On page 16, line 8, to place a closing bracket "]" following "and the"; and

On page 16, line 13, following "Police" to insert "*shall*" and to place brackets "[ ]" around and strike through "may"; and

On page 16, line 20, following "conducted" to insert "*by the Department of Criminal Justice Training*"; and

On page 16, line 20, to place an opening bracket "[" before "Any" and to strike through the remainder of the line; and

On page 16, lines 21 to 27, to strike through the same; and

On page 17, lines 1 to 6 to strike through the same; and

On page 17, line 6 to place a closing bracket "]" at the end of that line.

Floor Amendment No. 1 to **HB 63** (Corrected), by Representative Weaver:

HB 63, From page 7, line 23, through page 8, line 3, by deleting Section 4 in its entirety.

Floor Amendment No. 2 to **HB 63** (Corrected), by Representative Weaver:

HB 63, On page 1, on line 19 by deleting the word "*and*";

On page 1, on line 21 by deleting the period "*.*", and inserting in lieu thereof "*; and*"; and

On page 1, between lines 21 and 22, by inserting the following:

"*(c) The person has been a resident of the Commonwealth for at least five (5) years prior to the date of application for issuance or renewal.*".

Adjournment

Representative Stumbo moved that the House adjourn until 4 p.m. on Monday, February 10, 2003.

The motion that the House adjourn until 4 p.m., Monday, February 10, 2003, was adopted by voice vote.

MONDAY, FEBRUARY 10, 2003

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Coleman and Collins.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Friday, February 7, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 392, by Representatives De. Butler and J. Arnold: AN ACT relating to the journals of each house of the General Assembly.

HB 393, by Representative Yonts: AN ACT relating to medical malpractice insurance and making an appropriation therefor.

HB 394, by Representative Lindsay: AN ACT relating to corrections.

HB 395, by Representative Lindsay: AN ACT relating to probation and parole.

HB 396, by Representative Fischer: AN ACT to promote the uniform application of civil rights law in the Commonwealth.

HB 397, by Representative Gray: AN ACT relating to the Kentucky Employers' Mutual Insurance Authority.

HB 398, by Representative Callahan: AN ACT relating to safety education.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills :

Agriculture and Small Business: **HB 386, 391**

Appropriations and Revenue: **HB 390**

Banking and Insurance: **HB 388**

Judiciary: **HB 381, 385**

Licensing and Occupations: **HB 389**

State Government: **HB 383, 384, 387**

Tourism Development and Energy: **HB 382**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Judiciary: **HB 265, HJR 75, 102, HB 311, 342, 193**

Calendar

HB 30, 46, 117, 206, HJR 13, HCR 56 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved that the rules be suspended to allow the House to recess for a Rules Committee meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committee

The Committee on Rules reported that **HB 30, 46, 117, 206, HJR 13, HCR 56, HB 18, 38, 51, 63, 66, 68, 71, 73, 77, 107, 109, 124, 131, 132, 144, 194, 232, 233, 267, 270,** and **88** have been posted for passage in the Orders of the Day for February 11, 2003.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 175**

Orders of the Day

HB 5 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 5** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 10, 2003, roll call on **HB 5** - Appendix.)

HB 5 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 5** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 21 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HB 21** be passed.

On the roll call the vote was: **Yeas 94, Nays 2**. (See February 10, 2003, roll call on **HB 21** - Appendix.)

HB 21 was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 21** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 43 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 43** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 10, 2003, roll call on **HB 43** - Appendix.)

HB 43 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 43** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 54 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative De. Butler moved that **HB 54** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 10, 2003, roll call on **HB 54** - Appendix.)

HB 54 was passed and the title agreed to.

Representative De. Butler moved that the vote by which **HB 54** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to withdraw **HB 383**. Agreed.

Representative Stumbo moved that **HB 250** be reassigned to the Committee on Licensing and Occupations. Agreed.

Representative Westrom moved to withdraw **HB 236**. Agreed.

Representative Stumbo moved to suspend the rules to retroactively waive the posting requirement on the following: **HB 269, 294, 40, HJR 82,** and **83**. Agreed.

Representative Stumbo moved the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bill and Resolutions

HB 399, by Representative Crall: AN ACT relating to limited health benefit plans.

HB 400, by Representative Crall: AN ACT relating to insurance.

HB 401, by Representative Nelson: AN ACT relating to forest lands.

HB 402, by Representative Rasche: AN ACT relating to water faucets.

HB 403, by Representative J. Arnold: AN ACT relating to county treasurers.

HB 404, by Representative Crenshaw: AN ACT relating to incarceration of inmates.

HB 405, by Representative Marzian: AN ACT relating to nursing.

HB 406, by Representative Riggs: AN ACT relating to telecommunicators employed by local governments.

HB 407, by Representative Riggs: AN ACT relating to airport safety and security.

HB 408, by Representative Pasley: AN ACT relating to nuisance abatement in local governments.

HB 409, by Representative Palumbo: AN ACT relating to Enterprise Zone Program.

HB 410, by Representative Burch: AN ACT relating to citizens foster care review boards.

HB 411, by Representatives Marcotte, Walton, and Fischer: AN ACT relating to abuse of public trust.

HB 412, by Representative Ford: AN ACT relating to State Police promotions.

HB 413, by Representative P. Clark: AN ACT relating to motorcycle titles.

HB 414, by Representative P. Clark: AN ACT relating to expenditures by local governments.

HB 415, by Representatives Webb and Thomas: AN ACT relating to written complaints alleging violation of any provision of KRS Chapter 322.

HB 416, by Representative Crenshaw: AN ACT relating to crimes and punishments.

HB 417, by Representative Baugh: AN ACT relating to boilers.

HB 418, by Representative Baugh: AN ACT relating to manufactured home installers.

HB 419, by Representative Wilkey: AN ACT relating to detection of deception examiners.

HB 420, by Representative Wilkey: AN ACT relating to the Court of Justice.

HB 421, by Representative Denham: AN ACT relating to the agricultural development fund.

HB 422, by Representative Cherry: AN ACT relating to sales and use tax.

HB 423, by Representatives Brinkman, P. Clark, Feeley, Napier, Rand, and Pasley: AN ACT relating to retail marketing practices.

HB 424, by Representative Napier: AN ACT relating to motor carriers.

HB 425, by Representative Napier: AN ACT relating to pension systems of urban-county governments.

HB 426, by Representative Nunn: AN ACT relating to election fraud and declaring an emergency.

HB 427, by Representatives Jenkins and Weaver: AN ACT relating to firefighter participation in the Professional Firefighters Foundation Program.

HB 428, by Representative Jenkins: AN ACT relating to supplemental golf cart licenses.

HB 429, by Representatives Horlander, Jenkins, Miller, and L. Clark: AN ACT relating to juvenile justice.

HB 430, by Representative Geveden: AN ACT relating to state government.

HB 431, by Representative Geveden: AN ACT relating to state government.

HB 432, by Representative Geveden: AN ACT relating to state government.

HR 118, by Representative Bather: A RESOLUTION declaring February 27, 2003, as Kentucky African-American Heritage Commission Day, and recognizing the 2003 African-American Heritage Forum.

HCR 119, by Representative P. Clark: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Kentucky Retirement Systems Study Group to conduct a comprehensive analysis of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System, and to make recommendations thereon.

HR 120, by Representative Denham: A RESOLUTION adjourning the House of Representatives in honor of William R. Shugars Sr.

HCR 121, by Representative Denham: A CONCURRENT RESOLUTION urging the manufacturers of automobiles and wireless telephones to work in concert to create new wireless phone technology that reduces driver distraction.

HCR 122, by Representative Wilkey: A CONCURRENT RESOLUTION authorizing a study of prisoners in county jails.

HB 433, by Representative Geveden: AN ACT relating to state government.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **HB 391**

Banking and Insurance: **HB 379, 278, 338, 369**

Education: **HB 376, 360, 275, 320, 325, 327, 378**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 56, 136, 352, 353, 361, 362, 363, 319, HCR 5**

Health and Welfare: **HB 328, 312, 299, 80, 125**

Local Government: **HB 377, 249, 208, 120**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

Health and Welfare: **HB 250**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 269, HB 294, HJR 82,** and **HJR 83** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 269, AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part XI, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2002-03	2003-04
General Fund	7,651,000	7,651,000
Restricted Funds	1,931,000	2,144,000
Federal Funds	71,000	71,000
TOTAL	9,653,000	9,866,000

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Office of State Budget Director

	2002-03	2003-04
General Fund	3,665,000	3,665,000
Restricted Funds	923,000	1,318,000
TOTAL	4,588,000	4,983,000

c. State Planning Fund

	2002-03	2003-04
General Fund	490,000	490,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a grant of $25,000 in fiscal year 2002-2003 and $25,000 in fiscal year 2003-2004 to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2002-03	2003-04
General Fund	11,806,000	11,806,000
Restricted Funds	2,854,000	3,462,000
Federal Funds	71,000	71,000
TOTAL	14,731,000	15,339,000

2. GOVERNOR'S OFFICE OF TECHNOLOGY

	2002-03	2003-04
General Fund	300,000	300,000
Restricted Funds	61,692,500	61,318,000
Federal Funds	1,225,000	
Road Fund	125,000	125,000
TOTAL	63,342,500	61,743,000

Included in the above Restricted Funds appropriation is $536,000 in fiscal year 2002-2003 and $536,000 in fiscal year 2003-2004 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

3. DEPARTMENT OF VETERANS' AFFAIRS

	2002-03	2003-04
General Fund	14,448,500	15,163,700
Restricted Funds	18,448,100	19,332,000
TOTAL	32,896,600	34,495,700

4. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

	2002-03	2003-04
General Fund (Tobacco)	2,188,400	2,188,400
General Fund	213,500	213,500
Restricted Funds	50,000	0
Federal Funds	175,000	175,000
TOTAL	2,626,900	2,576,900

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2002-03	2003-04
General Fund	-0-	3,579,000
Restricted Funds	6,067,500	2,568,000
Federal Funds	50,313,000	50,312,000
TOTAL	56,380,500	56,459,000

Included in the above General Fund appropriation is $3,579,000 in fiscal year 2003-2004 for debt service, including $2,468,000 for the Kentucky Pride Program.

6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2002-03	2003-04
General Fund (Tobacco)	47,688,000	39,434,000
Restricted Funds	155,900	161,000
TOTAL	47,843,900	39,595,000

7. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2002-03	2003-04
General Fund (Tobacco)	2,574,800	2,236,600
General Fund	1,500,000	1,500,000
Federal Funds	111,700	111,700
TOTAL	4,186,500	3,848,300

8. SECRETARY OF STATE

	2002-03	2003-04
General Fund	2,360,100	2,360,100
Restricted Funds	878,500	1,006,600
TOTAL	3,238,600	3,366,700

Notwithstanding KRS 14.140, the above Restricted Funds appropriations shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch.

9. BOARD OF ELECTIONS

	2002-03	2003-04
General Fund	4,739,700	4,832,500
Restricted Funds	108,600	116,900
TOTAL	4,848,300	4,949,400

Included in the above General Fund appropriation is $3,335,300 in fiscal year 2002-2003 and $3,428,100 in fiscal year 2003-2004 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and 117.343). Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145, 117.343, and 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Special elections and additional precincts created by redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

10. TREASURY

	2002-03	2003-04
General Fund	2,275,900	2,275,900
Restricted Funds	815,700	834,500
TOTAL	3,091,600	3,110,400

Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2002-2004 biennium, $807,900 and $834,500 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

11. ATTORNEY GENERAL

	2002-03	2003-04
General Fund	13,738,900	13,774,700
Restricted Funds	6,747,400	7,269,900
Federal Funds	2,351,400	2,351,400
TOTAL	22,837,700	23,396,000

The $30,000 continuing General Fund appropriation from fiscal year 2001-2002 is for the purpose of notifying consumers, not otherwise notified by Ford Motor Company, of their eligibility for possible restitution as a result of the multistate settlement agreement with Ford Motor Company. Since the settlement award was not deposited prior to the end of fiscal year 2001-2002, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement did not lapse, notwithstanding KRS 45.229, and was carried forward into fiscal year 2002-2003 for the same purpose. If the settlement award is deposited subsequent to fiscal year 2002-2003, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2003-2004 for the same purpose.

12. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2002-03	2003-04
General Fund	25,108,000	26,745,300
Restricted Funds	843,300	200,000
Federal Funds	812,300	739,300
TOTAL	26,763,600	27,684,600

Included in the above General Fund appropriation is $258,400 in fiscal year 2002-2003 and $259,400 in fiscal year 2003-2004 to support a Commonwealth's Attorney and staff to service the 57th Judicial Circuit as authorized by the 2001 General Assembly.

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the Commonwealth's Attorneys.

Included in the above General Fund appropriation are funds to provide each full-time Commonwealth's Attorney the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that the Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Included in the above General Fund appropriation is $116,200 in fiscal year 2002-2003 and $106,400 in fiscal year 2003-2004 to provide funding for a full-time Commonwealth's Attorney office in the 40th Judicial Circuit.

Notwithstanding KRS 15.247, 15.705, and 15.750 funds are authorized to support the operations of the Commonwealth's Attorneys.

b. County Attorneys

	2002-03	2003-04
General Fund	21,179,900	22,177,500
Restricted Funds	62,300	4,800
Federal Funds	414,700	434,800
TOTAL	21,656,900	22,617,100

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the County Attorneys.

Included in the above General Fund appropriation are funds to provide each County Attorney the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Notwithstanding KRS 15.247 and 15.705, funds are authorized to support the operations of the County Attorneys.

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2002-03	2003-04
General Fund	46,287,900	48,922,800
Restricted Funds	905,600	204,800
Federal Funds	1,227,000	1,174,100
TOTAL	48,420,500	50,301,700

13. AUDITOR OF PUBLIC ACCOUNTS

	2002-03	2003-04
General Fund	5,400,400	5,375,400
Restricted Funds	3,940,500	4,377,100
TOTAL	9,340,900	9,752,500

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

14. AGRICULTURE

	2002-03	2003-04
General Fund	19,712,400	20,297,400
Restricted Funds	3,506,200	3,573,800
Federal Funds	2,955,000	2,130,000
TOTAL	26,173,600	26,001,200

Included in the above General Fund appropriation is $478,500 in fiscal year 2002-2003 and $478,500 in fiscal year 2003-2004 for the Breathitt Veterinary Center and $370,000 in fiscal year 2002-2003 and $370,000 in fiscal year 2003-2004 for the University of Kentucky for the diagnostic laboratories.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended General Fund moneys appropriated for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint trade office.

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.335. Included in the above General Fund appropriation is $305,000 in fiscal year 2003-2004 for debt service for animal shelter projects.

Included in the General Fund appropriation for the Department of Agriculture is $10,000 in fiscal year 2002-2003 and $10,000 in fiscal year 2003-2004 to support the costs associated with preparing reports for the Kentucky Aquaculture Task Force as directed in Part IX, Special Provisions, Government Operations, Department of Agriculture, in this Act. Notwithstanding KRS 45.229, any unexpended amount at the end of fiscal year 2002-2003 shall not lapse, but shall carry forward to fiscal year 2003-2004. Any unexpended amount remaining following the completion of the reports shall lapse to the credit of the General Fund.

15. MILITARY AFFAIRS

	2002-03	2003-04
General Fund	10,979,900	10,979,900
Restricted Funds	18,680,500	18,796,200
Federal Funds	40,720,900	18,187,800
TOTAL	70,381,300	47,963,900

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $420,000 in each fiscal year for the Youth Challenge Program.

16. PERSONNEL BOARD

	2002-03	2003-04
General Fund	578,500	578,500
Restricted Funds	1,700	1,700
TOTAL	580,200	580,200

17. LOCAL GOVERNMENT

	2002-03	2003-04
General Fund	9,008,100	10,440,000
Restricted Funds	2,235,800	902,400
Federal Funds	52,433,900	52,430,800
TOTAL	63,677,800	63,773,200

Included in the above General Fund appropriation is $1,168,000 in fiscal year 2003-2004 for debt service.

18. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2002-03	2003-04
General Fund	38,166,200	38,668,900

b. Local Government Economic Development Fund

	2002-03	2003-04
General Fund	46,118,300	47,499,200

The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Notwithstanding KRS 42.4582, moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of 47 percent effective July 1, 2002. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at 50 percent effective July 1, 2003. If actual coal severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,407,100 in fiscal year 2002-2003 and $1,480,200 in fiscal year 2003-2004 has been credited to the Osteopathic Scholarship Program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to 14.5 percent in fiscal year 2002-2003. In fiscal year 2003-2004 the amount shall be equal to 15 percent of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004, has been transferred as Restricted Funds to the Department for Regional Development within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $550,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004 has been credited to the

Kentucky Appalachian Commission and Appalachian Regional Commission for related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $960,800 in fiscal year 2002-2003 and $960,800 in fiscal year 2003-2004 has been credited to the Secondary Wood Products Development Fund. The Kentucky Wood Products Competitiveness Corporation shall emphasize job creation in the Eastern and Western Kentucky Coal Regions.

Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-2004 has been credited to the Kentucky Coal Coalition from funds available to the Department for Local Government.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $5,000,000 in each year of the biennium that shall be reserved for the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and 42.4588(5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Cabinet for Economic Development and approved by the Commissioner of the Department for Regional Development in the Cabinet for Economic Development. The projects identified are limited to research and development, commercialization, or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects shall be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

Notwithstanding KRS 42.4588, the Commissioner of the Department for Regional Development, in consultation with affected counties, shall be authorized to approve Local Government Economic Development Fund grants for job training and telecommunications infrastructure projects. The Commissioner is further authorized to prioritize funding of projects in the following order: industrial development projects, job training projects, and any other eligible projects or projects funded out of the Local Government Economic Development Fund.

Notwithstanding KRS 42.4588, the Cabinet for Economic Development is authorized to provide, in fiscal year 2002-2003, $1,000,000 for the East Kentucky Development Alliance to support a revolving loan fund, $1,000,000 to support the Appalachian Regional Hospital Project, and $2,000,000 for the Appalachia Bus Program from the Local Government Economic Development Fund Multi-County Fund.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 2001-2002 to fiscal year 2002-2003 and from fiscal year 2002-2003 to fiscal year 2003-2004 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2002-03	2003-04
General Fund	830,500	830,500

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2002-03	2003-04
General Fund	85,115,000	86,998,600

19. COMMISSION ON HUMAN RIGHTS

	2002-03	2003-04
General Fund	1,978,200	2,078,000
Restricted Funds	24,000	24,000
Federal Funds	572,600	170,800
TOTAL	2,574,800	2,272,800

20. COMMISSION ON WOMEN

	2002-03	2003-04
General Fund	269,900	269,900
Restricted Funds		4,600
Federal Funds		200
TOTAL	269,900	274,700

21. COMMISSION ON SMALL BUSINESS ADVOCACY

	2002-03	2003-04
General Fund	75,000	75,000
Restricted Funds	45,000	45,000
TOTAL	120,000	120,000

22. KENTUCKY RETIREMENT SYSTEMS

	2002-03	2003-04
Restricted Funds	14,980,500	15,847,500

23. REGISTRY OF ELECTION FINANCE

	2002-03	2003-04
General Fund	1,475,200	1,475,200
Restricted Funds	202,800	203,200
TOTAL	1,678,000	1,678,400

24. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2002-03	2003-04
Restricted Funds	752,700	782,100

b. Alcohol and Drug Counselors

	2002-03	2003-04
Restricted Funds	62,000	65,000

c. Board of Architects

	2002-03	2003-04
Restricted Funds	272,000	258,300

d. Board of Art Therapists

	2002-03	2003-04
Restricted Funds	11,300	11,400

e. Kentucky Athletic Commission

	2002-03	2003-04
Restricted Funds	158,500	167,300

f. Board of Auctioneers

	2002-03	2003-04
Restricted Funds	360,200	370,500

g. Board of Barbering

	2002-03	2003-04
Restricted Funds	225,600	231,500

h. Board of Chiropractic Examiners

	2002-03	2003-04
Restricted Funds	182,800	191,400

i. Board of Dentistry

	2002-03	2003-04
Restricted Funds	474,400	504,400

j. Board of Dietitians and Nutritionists

	2002-03	2003-04
Restricted Funds	67,900	71,500

k. Board of Embalmers and Funeral Directors

	2002-03	2003-04
Restricted Funds	240,400	249,100

l. Board of Engineers and Land Surveyors

	2002-03	2003-04
Restricted Funds	1,291,800	1,354,100

m. Board of Fee-Based Pastoral Counselors

	2002-03	2003-04
Restricted Funds	6,000	6,000

n. Board of Geologists

	2002-03	2003-04
Restricted Funds	133,000	135,000

o. Board of Hairdressers and Cosmetologists

	2002-03	2003-04
Restricted Funds	998,900	1,105,000

Notwithstanding KRS 317A.050, the Board of Hairdressers and Cosmetologists is permitted to increase the licensing and renewal fees necessary to provide for the enacted budget expenditure level.

p. Board of Hearing Instrument Specialists

	2002-03	2003-04
Restricted Funds	50,700	52,700

q. Board of Interpreters for Deaf and Hard of Hearing

	2002-03	2003-04
Restricted Funds	25,000	25,000

r. Board of Landscape Architects

	2002-03	2003-04
Restricted Funds	55,300	57,800

s. Board of Marriage and Family Therapists

	2002-03	2003-04
Restricted Funds	79,200	83,200

t. Board of Medical Licensure

	2002-03	2003-04
Restricted Funds	1,992,500	2,099,900

u. Board of Nursing

	2002-03	2003-04
Restricted Funds	4,695,300	4,268,900

Included in the above Restricted Funds appropriation is $175,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2002-03	2003-04
Restricted Funds	69,000	76,200

w. Board of Occupational Therapy

	2002-03	2003-04
Restricted Funds	76,600	86,000

x. Board of Ophthalmic Dispensers

	2002-03	2003-04
Restricted Funds	57,600	62,900

y. Board of Optometric Examiners

	2002-03	2003-04
Restricted Funds	152,400	157,000

z. Board of Pharmacy

	2002-03	2003-04
Restricted Funds	835,000	876,000

aa. Board of Physical Therapy

	2002-03	2003-04
Restricted Funds	263,400	280,000

ab. Board of Podiatry

	2002-03	2003-04
Restricted Funds	14,500	15,500

ac. Board of Professional Counselors

	2002-03	2003-04
Restricted Funds	49,700	51,700

ad. Board of Proprietary Education

	2002-03	2003-04
Restricted Funds	123,000	134,300

ae. Board of Psychology

	2002-03	2003-04
Restricted Funds	169,600	176,100

af. Real Estate Appraisers Board

	2002-03	2003-04
Restricted Funds	614,900	631,900

ag. Real Estate Commission

	2002-03	2003-04
Restricted Funds	2,003,100	2,302,900

Included in the above Restricted Funds appropriation is $966,700 in fiscal year 2002-2003 and $1,224,000 in fiscal year 2003-2004 for Real Estate Education and Recovery.

ah. Board of Respiratory Care

	2002-03	2003-04
Restricted Funds	182,700	188,600

ai. Board of Social Workers

	2002-03	2003-04
Restricted Funds	141,300	145,300

aj. Board of Speech Pathologists and Audiologists

	2002-03	2003-04
Restricted Funds	83,000	86,000

ak. Board of Veterinary Examiners

	2002-03	2003-04
Restricted Funds	228,300	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2002-03	2003-04
Restricted Funds	17,199,600	17,598,300

25. EDUCATION PROFESSIONAL STANDARDS BOARD

	2002-03	2003-04
General Fund	12,433,800	11,097,000
Restricted Funds	1,378,500	829,600
Federal Funds	3,020,300	4,379,200
TOTAL	16,832,600	16,305,800

Notwithstanding KRS 161.134, $800,000 in fiscal year 2002-2003 and $800,000 in fiscal year 2003-2004 is provided for National Board of Teaching Standards Certification from the General Fund.

Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

Included in the above General Fund appropriation is $2,000,000 in fiscal year 2002-2003 for the establishment of the Teacher Education Model Program.

Notwithstanding KRS 45.229, the above General Fund support appropriated for the Teacher Education Model Program shall not lapse in fiscal year 2002-2003, but be carried forward to fiscal year 2003-2004 for the purposes of providing program services in fiscal year 2003-2004.

26. BOARD OF EMERGENCY MEDICAL SERVICES

	2002-03	2003-04
General Fund	2,571,200	2,571,200
Restricted Funds	168,300	171,700
Federal Fund	362,800	100,000
TOTAL	3,102,300	2,842,900

27. GOVERNMENTAL SERVICES CENTER

	2002-03	2003-04
Restricted Funds	1,462,000	1,516,000

28. EXECUTIVE BRANCH ETHICS COMMISSION

	2002-03	2003-04
General Fund	335,900	340,500
Restricted Funds	300	2,400
TOTAL	336,200	342,900

29. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2002-03	2003-04
General Fund	-0-	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2001-2002 or fiscal year 2002-2003 shall not lapse but shall be carried forward into fiscal years 2002-2003 and 2003-2004, respectively.

b. Attorney General Expense

	2002-03	2003-04
General Fund	225,000	225,000

c. Board of Claims Awards

	2002-03	2003-04
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2002-03	2003-04
General Fund	3,200,000	3,400,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2002-03	2003-04
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2002-03	2003-04
General Fund	1,000,000	1,000,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2002-03	2003-04
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	2002-03	2003-04
General Fund	195,000	195,000

i. Frankfort Cemetery

	2002-03	2003-04
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2002-03	2003-04
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2002-03	2003-04
General Fund	200,000	200,000

l. Master Commissioner--Social Security

	2002-03	2003-04
General Fund	313,000	343,000

m. Workers' Compensation

	2002-03	2003-04
General Fund	502,000	532,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2002-03	2003-04
General Fund	60,000	60,000

o. Blanket Employee Bonds

	2002-03	2003-04
General Fund	100,000	100,000

p. Necessary Government Expenses

	2002-03	2003-04
General Fund	5,029,000	0

Included in the above appropriation for fiscal year 2002-2003 is $29,000 authorized for the Commonwealth's Attorneys budget unit, $1,000,000 authorized for the ANOC-Unredeemed Checks budget unit, $3,950,000 authorized for the Military Affairs budget unit, and $50,000 authorized for the Executive Branch Ethics Commission.

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2002-03	2003-04
General Fund	12,136,500	7,367,500

Included in the above appropriations is $0 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

30. KENTUCKY RIVER AUTHORITY

Budget Units

	2002-03	2003-04
General Fund	379,000	379,000

Restricted Funds	3,266,000	3,698,000
TOTAL	3,645,000	4,077,000

TOTAL - GOVERNMENT OPERATIONS

	2002-03	2003-04
General Fund (Tobacco)	52,451,200	43,859,000
General Fund	260,119,500	265,051,300
Restricted Funds	165,815,500	163,865,200
Federal Funds	155,539,600	131,594,000
Road Fund	125,000	125,000
TOTAL	634,050,800	604,494,500

B. CABINET FOR ECONOMIC DEVELOPMENT

31. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Office of the Secretary

	2002-03	2003-04
General Fund	1,392,700	1,417,100
Restricted Funds	4,575,200	4,612,800
TOTAL	5,967,900	6,029,900

Included in the above Restricted Funds appropriation is $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 for the East Kentucky Jobs Creation Corporation and $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation. Also included in the above Restricted Funds appropriation is $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004 for the Regional Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Regional Development Office shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center.

Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2002-2003 and $420,800 in fiscal year 2003-2004 for the Louisville Waterfront Development Corporation.

Included in the above Restricted Funds appropriation is $2,144,900 in fiscal year 2002-2003 and $2,169,400 in fiscal year 2003-2004 for the Office of the Commissioner for the New Economy, including up to $1,300,000 in each year for Innovation and Commercialization Centers. Notwithstanding KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, and 164.6037, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the appropriations, as necessary but not to exceed $1,969,400 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 from the Council on Postsecondary Education, Science and Technology Funding Program, shall be transferred to the Office of the Commissioner for the New Economy. The Office of State Budget Director shall certify the transfer.

b. Administration and Program Support

	2002-03	2003-04
General Fund	2,179,900	2,167,500
Restricted Funds	29,800	45,900
TOTAL	2,209,700	2,213,400

c. Business Development

	2002-03	2003-04
General Fund	2,517,900	2,541,600
Restricted Funds	248,800	290,600
TOTAL	2,766,700	2,832,200

d. Financial Incentives

	2002-03	2003-04
General Fund	3,343,800	5,618,900
Restricted Funds	2,182,700	2,227,300
TOTAL	5,526,500	7,846,200

Included in the above General Fund appropriation is $2,247,000 in fiscal year 2003-2004 for debt service for new bonds.

Notwithstanding KRS 45.229, the General Fund appropriation for fiscal year 2001-2002 and for fiscal year 2002-2003 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 154.12-278 by which the Kentucky Economic Development Finance Authority (KEDFA) authorized a grant of up to $1,300,000 in fiscal year 2001-2002 to the Kentucky Science and Technology Corporation, a maximum of $900,000 of the authorized amount shall be conveyed for expenditure. The remaining funding shall be retained and shall be appropriated to the Office of the Commissioner for the New Economy to be used to fund Innovation and Commercialization grants.

e. Community Development

	2002-03	2003-04
General Fund	2,855,900	2,956,000
Restricted Funds	440,100	454,000
Federal Funds	157,100	155,400
TOTAL	3,453,100	3,565,400

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2002-03	2003-04
General Fund	12,290,200	14,701,100
Restricted Funds	7,476,600	7,630,600
Federal Funds	157,100	155,400
TOTAL	19,923,900	22,487,100

C. EDUCATION

32. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2002-03	2003-04
General Fund	2,280,882,700	2,322,498,400

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky Program.

The above appropriations include $1,802,421,500 in fiscal year 2002-2003 and $1,842,274,900 in fiscal year 2003-2004 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for base SEEK is $186,083,500 in fiscal year 2002-2003 and $191,222,300 in fiscal year 2003-2004 for pupil transportation.

Included in the above appropriation is $135,369,800 in fiscal year 2002-2003 and $131,730,300 in fiscal year 2003-2004 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,416,900 in fiscal year 2002-2003 and $2,416,900 in fiscal year 2003-2004 for vocational transportation.

Included in the above appropriation is $21,452,600 in fiscal year 2002-2003 and $21,452,600 in fiscal year 2003-2004 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $57,258,000 in fiscal year 2002-2003 and $53,833,700 in fiscal year 2003-2004 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620.

Included in the above appropriation is $261,363,900 in fiscal year 2002-2003 and $270,190,000 in fiscal year 2003-2004 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

Notwithstanding KRS 157.395, included in the above appropriation is $600,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching

Standards.

b. Executive Policy and Management

	2002-03	2003-04
General Fund	1,215,400	1,235,100

c. Operations and Support Services

	2002-03	2003-04
General Fund	11,542,700	11,978,500
Restricted Funds	2,187,900	2,264,400
Federal Funds	562,500	573,800
TOTAL	14,293,100	14,816,700

Included in the above General Fund appropriation is $2,503,800 in fiscal year 2002-2003 and $2,553,900 in fiscal year 2003-2004 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

Included in the above General Fund appropriation in fiscal year 2003-2004 is $155,000 to provide for debt service for Bond Funds totaling $1,517,000 for capital projects relating to the Kentucky School for Deaf and the Kentucky School for the Blind as provided in Part II, Capital Projects Budget, in this Act.

d. Learning and Results Services

	2002-03	2003-04
General Fund	570,081,000	612,789,200
Restricted Funds	5,850,700	5,851,200
Federal Funds	491,060,800	497,995,000
TOTAL	1,066,992,500	1,116,635,400

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2002-2003 and $20,000,000 in fiscal year 2003-2004 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in fiscal year 2002-2003 and $10,800,000 in fiscal year 2003-2004 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

Included in the above General Fund appropriation is $100,000 in fiscal year 2003-2004 to provide funds for buildings and grounds for local school district number 155.

Included in the above General Fund appropriation is $277,397,000 in fiscal year 2002-2003 and $309,119,400 in fiscal year 2003-2004 to provide health insurance and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $4,060,000 in fiscal year 2002-2003 and $10,049,500 in fiscal year 2003-2004 for the school rewards escrow account.

Included in the above General Fund appropriation is $5,421,100 in fiscal year 2002-2003 and $5,659,500 in fiscal year 2003-2004 for the Kentucky School for the Blind, and $9,139,800 in fiscal year 2002-2003 and $9,559,300 in fiscal year 2003-2004 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $1,750,000 in fiscal year 2002-2003 and $1,750,000 in fiscal year 2003-2004 for the Community Education Program; $1,750,000 is established as the base level budget for the Community Education Program within the Kentucky Department of Education. Included in the $1,750,000 appropriation in fiscal year 2002-2003 is $1,700,000 for community education grants to support community education director salaries and $50,000 to support community education director training and the state advisory council. Included in the $1,750,000 appropriation in fiscal year 2003-2004 is $1,700,000 for community education grants to support community education director salaries and $50,000 to support community education director training and the state advisory council.

TOTAL - EDUCATION

	2002-03	2003-04
General Fund	2,863,721,800	2,948,501,200
Restricted Funds	8,038,600	8,115,600
Federal Funds	491,623,300	498,568,800
TOTAL	3,363,383,700	3,455,185,600

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

33. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	3,440,800	3,470,800
Restricted Funds	448,900	236,700
TOTAL	3,889,700	3,707,500

Included in the above General Fund appropriation is $1,470,900 in each fiscal year for the Governor's Scholars Program.

Included in the above General Fund appropriation is $405,000 in fiscal year 2002-2003 and $405,000 in fiscal year 2003-2004 for the Governor's School for the Arts.

Included in the above Restricted Funds appropriation is $400,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

Up to $30,000 in General Fund support each year is available to be transferred to the Environmental Education Council for additional support.

34. KENTUCKY ARTS COUNCIL

	2002-03	2003-04
General Fund	4,644,600	4,693,700
Restricted Funds	782,800	612,500
Federal Funds	692,800	621,100
TOTAL	6,120,200	5,927,300

35. TEACHERS' RETIREMENT SYSTEM

	2002-03	2003-04
General Fund	90,113,200	97,489,000
Restricted Funds	7,330,100	7,571,900
TOTAL	97,443,300	105,060,900

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2002-2003 or fiscal year 2003-2004 for the cost of administration.

Included in the above General Fund appropriation is $3,668,400 in fiscal year 2002-2003 and $7,636,700 in fiscal year 2003-2004 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2002-2004 biennium.

Included in the above General Fund appropriation is $694,800 in fiscal year 2002-2003 and $1,451,800 in fiscal year 2003-2004 to increase minimum value payments for members qualifying under provisions of KRS 161.620(3).

Included in the above General Fund appropriation is $1,179,900 in fiscal year 2003-2004 to make up for an underappropriation during fiscal year 2000-2001 under the provisions of KRS 161.550.

Included in the above General Fund appropriation is $4,406,000 in fiscal year 2002-2003 and $9,213,400 in fiscal year 2003-2004 to provide, when combined with the annual one and one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and nine-tenths percent in fiscal year 2002-2003 and an additional three percent in fiscal year 2003-2004.

Given enactment of 2002 Ky. Acts ch. 275, the amount of $1,652,000 from the above General Fund appropriation shall lapse to the credit of the General Fund at the end of fiscal year 2002-2003.

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2002-03	2003-04
General Fund	77,121,400	86,617,300

Included in the above General Fund appropriation is $76,853,100 in fiscal year 2002-2003 and $77,476,500 in fiscal year 2003-2004 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $8,500,000 in fiscal year 2003-2004 for debt service for bonds authorized by the 2000 Regular Session of the General Assembly.

Included in the above General Fund appropriation is $390,500 in fiscal year 2003-2004 for debt service for $4,600,000 in new bonding authority to be provided to public school district 165 in fiscal year 2002-2003.

Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2002-2004 biennium in anticipation of debt service availability during the 2004-2006 biennium. No bonded indebtedness based on the above amount is to be incurred during the 2002-2004 biennium.

37. DEAF AND HARD OF HEARING

	2002-03	2003-04
General Fund	909,100	881,100
Restricted Funds	281,500	260,000
TOTAL	1,190,600	1,141,100

38. KENTUCKY HERITAGE COUNCIL

	2002-03	2003-04
General Fund	945,700	945,700
Restricted Funds	785,700	227,500
Federal Funds	766,100	766,100
TOTAL	2,497,500	1,939,300

39. KENTUCKY EDUCATIONAL TELEVISION

	2002-03	2003-04
General Fund	14,936,400	15,389,300
Restricted Funds	1,106,400	1,075,700
Federal Funds	700,000	700,000
TOTAL	16,742,800	17,165,000

40. KENTUCKY HISTORICAL SOCIETY

	2002-03	2003-04
General Fund	6,145,000	6,377,500
Restricted Funds	627,200	571,400
Federal Funds	486,800	381,600
TOTAL	7,259,000	7,330,500

41. LIBRARIES AND ARCHIVES

a. General Operations

	2002-03	2003-04
General Fund	7,451,100	7,462,600
Restricted Funds	1,795,200	1,830,800
Federal Funds	1,807,600	1,836,800
TOTAL	11,053,900	11,130,200

b. Direct Local Aid

	2002-03	2003-04
General Fund	5,966,700	5,980,200
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
TOTAL	6,399,700	6,413,200

Notwithstanding KRS 171.201, included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of $0.73.

TOTAL - LIBRARIES AND ARCHIVES

	2002-03	2003-04
General Fund	13,417,800	13,442,800
Restricted Funds	1,804,200	1,839,800
Federal Funds	2,231,600	2,260,800

TOTAL	17,453,600	17,543,400

42. KENTUCKY CENTER FOR THE ARTS

	2002-03	2003-04
General Fund	619,800	619,800

43. ENVIRONMENTAL EDUCATION COUNCIL

	2002-03	2003-04
Restricted Funds	167,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2002-03	2003-04
General Fund	212,293,800	229,927,000
Restricted Funds	13,333,800	12,545,500
Federal Funds	4,877,300	4,729,600
TOTAL	230,504,900	247,202,100

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

44. COMMUNITY BASED SERVICES

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	280,666,700	279,264,400
Restricted Funds	104,134,700	123,639,600
Federal Funds	485,852,400	476,832,800
TOTAL	877,916,600	883,318,100

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

45. ADMINISTRATION SERVICES

	2002-03	2003-04
General Fund	27,660,400	29,162,700
Restricted Funds	4,390,100	4,501,800
Federal Funds	37,311,900	38,458,800
TOTAL	69,362,400	72,123,300

46. DISABILITY DETERMINATIONS

	2002-03	2003-04
Restricted Funds	62,700	65,800
Federal Funds	40,129,800	42,376,900
TOTAL	40,192,500	42,442,700

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	308,327,100	308,427,100
Restricted Funds	108,587,500	128,207,200
Federal Funds	563,294,100	557,668,500
TOTAL	987,471,500	997,884,100

F. FINANCE AND ADMINISTRATION CABINET

47. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2002-03	2003-04
General Fund	5,988,000	6,258,000
Restricted Funds	2,737,000	2,870,000

TOTAL	8,725,000	9,128,000

Included in the above General Fund appropriation is $200,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

b. Office of the Controller

	2002-03	2003-04
General Fund	6,098,000	6,193,000
Restricted Funds	396,000	414,000
Federal Funds	4,000,000	4,000,000
TOTAL	10,494,000	10,607,000

c. Debt Service

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	249,038,000	247,772,000
Road Fund	3,668,000	3,664,000
TOTAL	258,818,000	257,552,000

d. Administration

	2002-03	2003-04
General Fund	3,637,000	3,513,000
Restricted Funds	9,180,800	9,567,000
Road Fund	283,000	283,000
TOTAL	13,100,800	13,363,000

e. Facilities Management

	2002-03	2003-04
General Fund	8,086,000	8,064,000
Restricted Funds	25,116,000	25,821,000
TOTAL	33,202,000	33,885,000

f. County Costs

	2002-03	2003-04
General Fund	23,078,000	25,089,100
Restricted Funds	1,425,000	1,425,000
TOTAL	24,503,000	26,514,100

Included in the above General Fund appropriation is $5,431,000 in fiscal year 2002-2003 and $5,431,000 in fiscal year 2003-2004 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	2002-03	2003-04
Restricted Funds	85,145,600	80,760,800

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	295,925,000	296,889,100
Restricted Funds	124,000,400	120,857,800
Federal Funds	4,000,000	4,000,000
Road Fund	3,951,000	3,947,000
TOTAL	433,988,400	431,809,900

G. CABINET FOR HEALTH SERVICES

Budget Units

48. MEDICAID SERVICES

a. Administration

	2002-03	2003-04
General Fund	17,848,000	18,028,200
Restricted Funds	20,624,400	20,606,800
Federal Funds	44,009,800	44,542,700
TOTAL	82,482,200	83,177,700

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(1) Establish a new program;

(2) Expand the services of an existing program; or

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

b. Benefits

	2002-03	2003-04
General Fund	752,373,700	757,093,500
Restricted Funds	200,011,300	188,448,600
Federal Funds	2,245,464,700	2,228,574,600
TOTAL	3,197,849,700	3,174,116,700

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Included in the above appropriation is $1,200,000 in General Fund support and $4,800,000 Federal Funds in each fiscal year to support the Breast and Cervical Cancer Treatment Program.

Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal year 2002-2003 shall not lapse, but shall be carried forward into the next fiscal year.

49. PUBLIC HEALTH

	2002-03	2003-04
General Fund (Tobacco)	21,738,800	20,882,800
General Fund	55,693,300	56,362,700
Restricted Funds	65,849,000	65,914,100
Federal Funds	141,120,500	127,620,500
TOTAL	284,401,600	270,780,100

Included in the above appropriation is $50,000 in General Fund support in each fiscal year to support hospital-based hospice services in Louisville, Kentucky.

Included in the above fiscal year 2003-2004 General Fund appropriation is $281,000 in debt service for new bonds.

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

50. MENTAL HEALTH/MENTAL RETARDATION

	2002-03	2003-04
General Fund (Tobacco)	1,000,000	1,000,000
General Fund	168,530,000	172,449,900
Restricted Funds	190,820,600	206,415,200
Federal Funds	41,724,800	41,355,900
TOTAL	402,075,400	421,221,000

Included in the above General Fund appropriation is $275,000 in fiscal year 2002-2003 and $275,000 in fiscal year 2003-2004 to implement a training program relating to mental health consultation and education to jails, as identified in Part IX, Special

Provisions, of this Act (Part IX, Special Provisions, 25. Department for Mental Health/Mental Retardation, e. Mental Health Consultation and Education to Jails). No funds shall be disbursed by the Cabinet for Health Services until all plans for training programs have been approved by the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

Also included in the above General Fund appropriation is $563,000 in fiscal year 2003-2004 for debt service to support new bonds.

51. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2002-03	2003-04
General Fund (Tobacco)	1,600,000	1,600,000
General Fund	16,709,500	16,709,500
Restricted Funds	22,089,000	23,262,900
Federal Funds	10,053,700	9,822,800
TOTAL	50,452,200	51,395,200

52. CERTIFICATE OF NEED

	2002-03	2003-04
General Fund	131,500	134,100
Restricted Funds	234,200	251,100
TOTAL	365,700	385,200

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

53. AGING SERVICES

	2002-03	2003-04
General Fund	26,421,800	26,821,800
Restricted Funds	760,400	761,600
Federal Funds	18,885,300	18,885,300
TOTAL	46,067,500	46,468,700

54. ADMINISTRATIVE SUPPORT

	2002-03	2003-04
General Fund	9,866,000	9,875,000
Restricted Funds	8,154,000	8,806,700
Federal Funds	12,729,200	13,254,500
TOTAL	30,749,200	31,936,200

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

TOTAL - CABINET FOR HEALTH SERVICES

	2002-03	2003-04
General Fund (Tobacco)	24,338,800	23,482,800
General Fund	1,047,573,800	1,057,474,700
Restricted Funds	508,542,900	514,467,000
Federal Funds	2,513,988,000	2,484,056,300
TOTAL	4,094,443,500	4,079,480,800

H. JUSTICE CABINET

55. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2002-03	2003-04
General Fund	8,231,000	8,376,000
Restricted Funds	1,908,100	2,164,200
Federal Funds	13,433,500	13,384,700
TOTAL	23,572,600	23,924,900

Included in the above General Fund appropriation is $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 to provide free civil legal services for indigents.

Included in the above General Fund appropriation is $1,096,700 in fiscal year 2002-2003 and $1,152,200 in fiscal year 2003-2004 for the operation of the State Parole Board.

Included in the above General Fund appropriation is $70,000 in fiscal year 2002-2003 and $70,000 in fiscal year 2003-2004 for a grant to continue the Urban League of Lexington-Fayette County Construction Training Program.

Included within the above Restricted Funds appropriation is $375,600 in fiscal year 2002-2003 and $363,700 in fiscal year 2003-2004 to support the Criminal Justice Council. Notwithstanding KRS 15.440, 15.460, and 15.470, these Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

b. State Police

	2002-03	2003-04
General Fund	85,574,900	88,324,900
Restricted Funds	7,670,800	7,621,200
Road Fund	30,000,000	30,000,000
Federal Funds	9,772,600	10,261,300
TOTAL	133,018,300	136,207,400

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2002-03	2003-04
Restricted Funds	39,077,100	37,941,400
Federal Funds	2,700,000	2,700,000
TOTAL	41,777,100	40,641,400

Included in the above Restricted Funds appropriation is $22,167,300 in fiscal year 2002-2003 and $22,915,000 in fiscal year 2003-2004 for training incentive payments in accordance with KRS 15.430 and 15.440.

Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004 for training incentive payments for each participant.

d. Juvenile Justice

	2002-03	2003-04
General Fund	83,790,100	86,290,100
Restricted Funds	14,015,000	15,691,600
Federal Funds	17,300,000	17,250,000
TOTAL	115,105,100	119,231,700

Included in the above General Fund appropriation is $4,940,000 in fiscal year 2002-2003 and $4,394,700 in fiscal year 2003-2004 to support detention subsidies to counties of $94 per day per juvenile and to support the provisions included in Part IX, Special Provisions, Juvenile Justice.

Included in the above General Fund appropriation is $350,000 in fiscal year 2002-2003 and $350,000 in fiscal year 2003-2004 for the operation of the Gateway Juvenile Diversion Center.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the operation of the Mary Kendall Homes.

TOTAL - JUSTICE OPERATIONS

	2002-03	2003-04
General Fund	177,596,000	182,991,000
Restricted Funds	62,671,000	63,418,400
Road Fund	30,000,000	30,000,000
Federal Funds	43,206,100	43,596,000
TOTAL	313,473,100	320,005,400

56. CORRECTIONS

Budget Units

a. Corrections Management

	2002-03	2003-04
General Fund	15,222,900	16,372,800
Restricted Funds	15,799,700	15,583,900
Federal Funds	1,743,100	800,000
TOTAL	32,765,700	32,756,700

Included in the above General Fund appropriation is $549,000 in fiscal year 2003-2004 to provide for debt service payments to support new bonds.

b. Community Services and Local Facilities

	2002-03	2003-04
General Fund	65,969,000	79,075,000
Restricted Funds	15,623,400	629,900
Federal Funds	51,000	
TOTAL	81,643,400	79,704,900

Notwithstanding KRS 441.605 to 441.695 for fiscal year 2002-2003, funds in the amount of $15,000,000 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

In accordance with KRS 196.076(1) to (8), funding is provided for the Probation and Parole Salary Improvement Program.

c. Adult Correctional Institutions

	2002-03	2003-04
General Fund	188,590,800	201,583,900
Restricted Funds	6,526,100	6,588,500
Federal Funds	328,700	215,200
TOTAL	195,445,600	208,387,600

d. Local Jail Support

	2002-03	2003-04
General Fund	15,276,100	15,276,100

Included in the General Fund appropriation is $931,100 in fiscal year 2002-2003 and $931,100 in fiscal year 2003-2004 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $400,000 in fiscal year 2002-2003 and $400,000 in fiscal year 2003-2004 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2002-03	2003-04
General Fund	285,058,800	312,307,800
Restricted Funds	37,949,200	22,802,300
Federal Funds	2,122,800	1,015,200
TOTAL	325,130,800	336,125,300

TOTAL - JUSTICE CABINET

	2002-03	2003-04
General Fund	462,654,800	495,298,800
Restricted Funds	100,620,200	86,220,700
Federal Funds	45,328,900	44,611,200
Road Fund	30,000,000	30,000,000
TOTAL	638,603,900	656,130,700

I. LABOR

LABOR CABINET

57. Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	414,900	432,700
Restricted Funds	5,652,600	5,897,300
TOTAL	6,067,500	6,330,000

b. Workplace Standards

	2002-03	2003-04
General Fund	2,085,400	2,067,600
Restricted Funds	124,275,500	124,691,000
Federal Funds	3,280,500	3,280,500
TOTAL	129,641,400	130,039,100

c. Workers' Claims

	2002-03	2003-04
Restricted Funds	16,397,700	17,093,300

d. Kentucky Occupational Safety and Health Review Commission

	2002-03	2003-04
Restricted Funds	476,800	479,300

TOTAL - LABOR CABINET

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	146,802,600	148,160,900
Federal Funds	3,280,500	3,280,500
TOTAL	152,583,400	153,941,700

Budget Unit

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2002-03	2003-04
Restricted Funds	151,812,000	153,419,000

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to the Department of Mines and Minerals.

Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 342.122(1)(b), the workers' compensation assessment rate shall remain at 11.5 percent for the biennium.

TOTAL - LABOR

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	298,614,600	301,579,900
Federal Funds	3,280,500	3,280,500
TOTAL	304,395,400	307,360,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

59. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	9,698,100	10,316,000
Restricted Funds	331,900	277,300
Federal Funds	1,585,200	1,596,300
TOTAL	11,615,200	12,189,600

b. Environmental Protection

	2002-03	2003-04
General Fund	23,497,000	24,405,900
Restricted Funds	27,442,300	35,191,700
Federal Funds	19,457,000	19,661,900
TOTAL	70,396,300	79,259,500

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above General Fund appropriation is $104,000 in fiscal year 2003-2004 to provide for debt service payments to support new bonds.

Included in the above Restricted Funds appropriation is $7,400,000 in fiscal year 2002-2003 and $12,132,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

c. Natural Resources

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	13,275,600	14,203,800
Restricted Funds	4,583,700	3,809,900
Federal Funds	6,283,300	4,914,700
TOTAL	33,142,600	31,928,400

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2002-03	2003-04
General Fund	10,319,700	10,680,700
Restricted Funds	6,157,800	6,484,100
Federal Funds	17,243,300	17,390,000
TOTAL	33,720,800	34,554,800

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2002-03	2003-04
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	56,790,400	59,606,400
Restricted Funds	38,515,700	45,763,000
Federal Funds	66,568,800	65,562,900
TOTAL	170,874,900	179,932,300

60. ENVIRONMENTAL QUALITY COMMISSION

	2002-03	2003-04
General Fund	260,500	276,300
Restricted Funds	2,000	
TOTAL	262,500	276,300

61. KENTUCKY NATURE PRESERVES COMMISSION

	2002-03	2003-04
General Fund	980,900	1,053,100
Restricted Funds	314,700	298,700
Federal Funds	25,000	25,000
TOTAL	1,320,600	1,376,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	58,031,800	60,935,800
Restricted Funds	38,832,400	46,061,700
Federal Funds	66,593,800	65,587,900
TOTAL	172,458,000	181,585,400

K. PERSONNEL CABINET

62. PERSONNEL CABINET

Budget Units

a. General Operations

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	13,222,000	14,223,200
TOTAL	16,567,100	17,568,300

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

b. Public Employees Deferred Compensation Authority

	2002-03	2003-04
Restricted Funds	5,183,300	5,622,100

c. Workers' Compensation Benefits and Reserve

	2002-03	2003-04
Restricted Funds	17,269,200	18,138,200

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	2002-03	2003-04
General Fund	3,345,100	3,345,100
Restricted Funds	35,674,500	37,983,500
TOTAL	39,019,600	41,328,600

L. POSTSECONDARY EDUCATION

Budget Units

63. COUNCIL ON POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,280,000	5,455,000
General Fund	101,554,300	137,865,800
Restricted Funds	14,536,800	4,707,700
Federal Funds	4,260,000	3,161,200
TOTAL	126,631,100	151,189,700

Included in the above General Fund appropriation is $82,270,900 in fiscal year 2002-2003 and $114,545,700 in fiscal year 2003-2004 for the Strategic Investment and Incentive Funding Program. The following trust funds and funding programs make up the Strategic Investment and Incentive Funding Program for fiscal year 2002-2003 and for fiscal year 2003-2004. Included in the above General Fund appropriation is $11,230,000 in fiscal year 2003-2004 for the Research Challenge Trust Fund. Included in the above General Fund appropriation is $2,246,000 in fiscal year 2003-2004 for the Regional University Excellence Trust Fund. Included in the above General Fund appropriation is $1,300,000 in fiscal year 2002-2003 and $1,300,000 in fiscal year 2003-2004 for the Technology Initiative Trust Fund. Included in the above General Fund appropriation is $62,431,300 in fiscal year 2002-2003 and $79,230,100 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund. Included in the above Restricted Funds appropriation is $750,000 in fiscal year 2002-2003 for the Student Financial Aid and Advancement Trust Fund. Included in the above General Fund appropriation is $11,768,000 in fiscal year 2002-2003 and $11,768,000 in fiscal year 2003-2004 for the Adult Education and Literacy Funding Program. Included in the above General Fund appropriation is $6,771,600 in fiscal year 2002-2003 and $8,771,600 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above Restricted Funds appropriation is $4,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 for the Science and Technology Funding Program.

Included in the above General Fund appropriation for the Research Challenge Trust Fund is $11,230,000 in fiscal year 2003-2004 for debt service to support the Research Challenge Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Included in the above General Fund appropriation for the Regional University Excellence Trust Fund is $2,246,000 in fiscal year 2003-2004 for debt service to support the Regional University Excellence Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Science and Technology Funding Program shall not lapse.

64. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2002-03	2003-04
General Fund (Tobacco)	750,000	750,000
General Fund	45,860,000	66,828,300
Restricted Funds	86,802,500	97,352,600
Federal Funds	868,700	890,000
TOTAL	134,281,200	165,820,900

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $28,885,800 for the College Access Program in fiscal year 2002-2003 and $42,504,400 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $12,288,400 for the Kentucky Tuition Grant Program in fiscal year 2002-2003 and $18,216,200 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation for the Teacher Scholarship Program is $976,600 in fiscal year 2002-2003 and $2,279,400 in fiscal year 2003-2004.

Included in the above Restricted Funds appropriation is $742,800 in fiscal year 2002-2003 and $765,100 in fiscal year 2003-2004 for the administration of the Kentucky Educational Excellence Scholarship Program.

65. EASTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	73,451,800	76,115,100
Restricted Funds	83,158,600	87,603,100
Federal Funds	44,454,400	46,665,700
TOTAL	201,064,800	210,383,900

Included in the above General Fund appropriation is $3,700,400 in fiscal year 2002-2003 and $3,712,100 in fiscal year 2003-2004 for debt service for previously issued bonds.

66. KENTUCKY STATE UNIVERSITY

	2002-03	2003-04
General Fund	23,162,700	23,481,500
Restricted Funds	16,446,900	17,699,000
Federal Funds	11,500,400	11,730,400
TOTAL	51,110,000	52,910,900

Included in the above General Fund appropriation is $2,247,600 in fiscal year 2002-2003 and $2,252,000 in fiscal year 2003-2004 for debt service for previously issued bonds.

67. MOREHEAD STATE UNIVERSITY

	2002-03	2003-04
General Fund	42,747,400	44,103,500
Restricted Funds	46,293,500	47,104,600
Federal Funds	46,570,500	51,207,100
TOTAL	135,611,400	142,415,200

Included in the above General Fund appropriation is $1,543,700 in fiscal year 2002-2003 and $1,452,600 in fiscal year 2003-2004 for debt service for previously issued bonds.

68. MURRAY STATE UNIVERSITY

	2002-03	2003-04
General Fund	51,669,400	53,230,000
Restricted Funds	68,752,700	72,256,200
Federal Funds	10,646,700	10,906,800
TOTAL	131,068,800	136,393,000

Included in the above General Fund appropriation is $1,880,700 in fiscal year 2002-2003 and $1,884,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

69. NORTHERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	45,989,000	48,636,400
Restricted Funds	66,180,400	69,535,800
Federal Funds	7,422,000	7,669,100
TOTAL	119,591,400	125,841,300

Included in the above General Fund appropriation is $5,019,600 in fiscal year 2002-2003 and $5,033,300 in fiscal year 2003-2004 for debt service for previously issued bonds.

70. UNIVERSITY OF KENTUCKY

	2002-03	2003-04
General Fund	313,431,100	317,803,800
Restricted Funds	858,999,900	873,254,500
Federal Funds	126,193,600	128,053,100
TOTAL	1,298,624,600	1,319,111,400

Included in the above General Fund appropriation is $6,461,300 in fiscal year 2002-2003 and $5,848,900 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $9,150,700 in fiscal year 2002-2003 and $9,416,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College, of which $988,100 in fiscal year 2002-2003 and $732,700 in fiscal year 2003-2004 is for debt service for previously issued bonds.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 to support medical residency positions at Morehead and Corbin.

Included in the above Restricted Funds appropriation is $14,424,900 in fiscal year 2002-2003 and $15,388,100 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $5,923,500 in fiscal year 2002-2003 and $5,923,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College. Included in the above General Fund appropriation is $103,000 in fiscal year 2002-2003 and $103,000 in fiscal year 2003-2004 for the Ovarian Cancer Screening Program. Also, notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) moneys in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky as specified in Part IX, Special Provisions, of this Act.

71. UNIVERSITY OF LOUISVILLE

	2002-03	2003-04
General Fund	176,745,200	179,095,300
Restricted Funds	293,702,300	302,317,400
Federal Funds	49,334,100	50,789,900
TOTAL	519,781,600	532,202,600

Included in the above General Fund appropriation is $11,330,000 in fiscal year 2002-2003 and $9,504,900 in fiscal year

2003-2004 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $17,052,900 in fiscal year 2002-2003 and $17,500,300 in fiscal year 2003-2004 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Included in the above Restricted Funds appropriation is $50,000 in fiscal year 2002-2003 for the Quality and Charity Trust Agreement.

Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2001-2002 shall not lapse. Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Care Trust Agreement in fiscal year 2002-2003 shall continue into fiscal year 2003-2004 for this purpose. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2003-2004.

72. WESTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	70,427,100	74,572,800
Restricted Funds	81,837,400	85,598,400
Federal Funds	30,444,000	32,444,000
TOTAL	182,708,500	192,615,200

Included in the above General Fund appropriation is $3,295,900 in fiscal year 2002-2003 and $3,114,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

73. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2002-03	2003-04
General Fund	189,722,700	195,194,000
Restricted Funds	177,568,900	185,450,000
Federal Funds	68,053,500	71,735,500
TOTAL	435,345,100	452,379,500

Included in the above General Fund appropriation is $10,726,000 in fiscal year 2002-2003 and $10,765,800 in fiscal year 2003-2004 for debt service for previously issued bonds.

Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Fund shall be $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004.

Notwithstanding KRS 95A.262(3), $500,000 is provided each fiscal year of the 2002-2004 biennium for the firefighters training center fund.

TOTAL - POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	7,030,000	6,205,000
General Fund	1,134,760,700	1,216,926,500
Restricted Funds	1,794,279,900	1,842,879,300
Federal Funds	399,747,900	415,252,800
TOTAL	3,335,818,500	3,481,263,600

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

74. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2002-03	2003-04
General Fund	635,000	657,300
Restricted Funds	2,539,000	2,936,900
Federal Funds	546,900	557,800
TOTAL	3,720,900	4,152,000

75. ALCOHOLIC BEVERAGE CONTROL

	2002-03	2003-04
General Fund	250,000	1,663,000
Restricted Funds	5,887,600	4,545,200
TOTAL	6,137,600	6,208,200

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-

2004 to carry out the provisions of KRS 438.337.

76. FINANCIAL INSTITUTIONS

	2002-03	2003-04
Restricted Funds	8,993,100	9,329,700

77. KENTUCKY RACING COMMISSION

	2002-03	2003-04
General Fund	522,800	522,800
Restricted Funds	15,002,600	13,664,500
TOTAL	15,525,400	14,187,300

78. HOUSING, BUILDINGS AND CONSTRUCTION

	2002-03	2003-04
General Fund	1,764,100	2,726,600
Restricted Funds	12,826,500	12,287,600
TOTAL	14,590,600	15,014,200

79. INSURANCE

General Operations

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
Restricted Funds	22,851,900	24,162,100
TOTAL	42,257,100	41,018,000

80. MINES AND MINERALS

	2002-03	2003-04
General Fund	9,614,900	9,714,900
Restricted Funds	2,261,100	2,043,200
Federal Funds	599,300	598,500
TOTAL	12,475,300	12,356,600

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to Mines and Minerals.

81. PUBLIC ADVOCACY

	2002-03	2003-04
General Fund	23,925,300	25,389,800
Restricted Funds	3,025,900	3,077,900
Federal Funds	1,569,300	1,384,500
TOTAL	28,520,500	29,852,200

82. PUBLIC SERVICE COMMISSION

	2002-03	2003-04
General Fund	11,527,900	11,752,100
Restricted Funds	2,524,000	24,000
Federal Funds	259,800	272,200
TOTAL	14,311,700	12,048,300

Included in the above General Fund appropriation is $589,000 in fiscal year 2002-2003 and $589,000 in fiscal year 2003-2004 for debt service on bonds for the new office building authorized by the 1996 General Assembly.

83. SECRETARY

a. General Operations

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	2,036,900	2,095,700
TOTAL	2,305,100	2,374,300

b. Petroleum Storage Tank Environmental Assurance Fund

	2002-03	2003-04
Restricted Funds	32,103,700	29,660,600

TOTAL - SECRETARY

	2002-03	2003-04
General Fund	268,200	278,600
Restricted Funds	34,140,600	31,756,300
TOTAL	34,408,800	32,034,900

84. BOARD OF TAX APPEALS

	2002-03	2003-04
General Fund	478,100	498,600

85. CHARITABLE GAMING

	2002-03	2003-04
Restricted Funds	3,460,800	3,603,800

Notwithstanding KRS 238.570, the gross receipts fee for fiscal year 2002-2003 and fiscal year 2003-2004 shall be fifty-three one-hundredths of one percent.

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
General Fund	48,986,300	53,203,700
Restricted Funds	113,513,100	107,431,200
Federal Funds	2,975,300	2,813,000
TOTAL	184,879,900	180,303,800

N. REVENUE

Budget Units

86. REVENUE CABINET

	2002-03	2003-04
General Fund	67,852,000	65,032,000
Restricted Funds	4,519,000	4,149,200
Road Fund	1,418,000	1,418,000
TOTAL	73,789,000	70,599,200

Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2002-2004 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, 42.190, 95A.220, and 95A.262 in fiscal year 2002-2003 and fiscal year 2003-2004. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2002-2003 and 2003-2004 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account, except that the first $100,000 shall be deposited exclusively to the General Fund. The Revenue Cabinet may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

87. PROPERTY VALUATION ADMINISTRATORS

	2002-03	2003-04
General Fund	27,431,800	28,222,300
Restricted Funds	3,894,100	4,464,100
TOTAL	31,325,900	32,686,400

Notwithstanding KRS 132.590(3)(c) and (4) and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - REVENUE CABINET

	2002-03	2003-04
General Fund	95,283,800	93,254,300
Restricted Funds	8,413,100	8,613,300
Road Fund	1,418,000	1,418,000
TOTAL	105,114,900	103,285,600

O. TOURISM DEVELOPMENT CABINET

Budget Units

88. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	4,259,000	4,534,000
Restricted Funds	119,000	1,200,000
TOTAL	4,378,000	5,734,000

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for the purpose of supporting expenditures relating to agencies and programs within the Tourism Development Cabinet. The Secretary of the Tourism Development Cabinet shall have the ability to transfer these funds to other programs and budget units within the Tourism Development Cabinet. Any funds transferred to other agencies within the Tourism Development Cabinet shall be designated as Restricted Funds and may be used to support the activities, programs, and operations of the agency receiving the respective funds.

The Tourism Development Cabinet, in conjunction with the Department of Agriculture, shall submit an application with the Governor's Office of Agricultural Policy for funds to support the activities and operations of the Office of Agritourism and the Agritourism Advisory Council.

89. BREAKS INTERSTATE PARK

	2002-03	2003-04
General Fund	200,000	200,000

90. TRAVEL DEVELOPMENT

	2002-03	2003-04
General Fund	7,041,000	7,211,000

91. PARKS

	2002-03	2003-04
General Fund	29,446,000	29,518,000
Restricted Funds	50,998,000	52,400,000
Federal Funds	14,000	
TOTAL	80,458,000	81,918,000

Notwithstanding KRS 148.800, 148.805, and 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

92. KENTUCKY HORSE PARK

	2002-03	2003-04
General Fund	1,750,000	1,650,000
Restricted Funds	5,942,000	5,632,000
TOTAL	7,692,000	7,282,000

93. KENTUCKY STATE FAIR BOARD

	2002-03	2003-04
General Fund	407,000	737,000
Restricted Funds	30,163,000	30,673,000
TOTAL	30,570,000	31,410,000

Included in the Restricted Funds appropriation is $371,000 in fiscal year 2002-2003 and $371,000 in fiscal year 2003-2004 for debt service for Project 55.

Any available Restricted Funds included in the State Fair Board's Capital Budget Account may be transferred to the operating budget to support personnel and operating expenses of the State Fair Board.

Included in the above General Fund appropriation in fiscal year 2003-2004 is $330,000 for debt service to support Bond

Funds totaling $3,300,000 for the purchase of a Department of Transportation Building adjacent to the property owned by the State Fair Board and to replace roofs.

94. FISH AND WILDLIFE RESOURCES

	2002-03	2003-04
Restricted Funds	27,381,000	28,658,000
Federal Funds	7,850,000	7,650,000
TOTAL	35,231,000	36,308,000

TOTAL-TOURISM DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	43,103,000	43,850,000
Restricted Funds	114,603,000	118,563,000
Federal Funds	7,864,000	7,650,000
TOTAL	165,570,000	170,063,000

P. TRANSPORTATION CABINET

95. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2002-03	2003-04
Restricted Funds	4,817,200	4,817,900
Federal Funds	13,800	9,400
TOTAL	4,831,000	4,827,300

Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

b. Revenue Sharing

	2002-03	2003-04
Road Fund	217,962,400	221,866,600

1. Included in the above Road Fund appropriation is $82,440,100 in fiscal year 2002-2003 and $83,922,400 in fiscal year 2003-2004 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2002-2003 and $38,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $100,009,400 in fiscal year 2002-2003 and $101,807,600 in fiscal year 2003-2004 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2002-2003 and $46,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $34,687,900 in fiscal year 2002-2003 and $35,311,600 in fiscal year 2003-2004 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2002-2003 and $16,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $825,000 in fiscal year 2002-2003 and $825,000 in fiscal year 2003-2004 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

c. Public Transportation

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	2,506,100	874,100
Federal Funds	28,864,900	27,517,000
TOTAL	36,891,300	33,266,400

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for nonpublic school transportation.

Included in the above General Fund appropriation is $645,000 in fiscal year 2002-2003 to match federal grants for the TARC Transportation Tomorrow Rapid Transit Study.

d. Highways

	2002-03	2003-04
Restricted Funds	61,627,300	61,633,800
Federal Funds	495,939,000	496,114,400
Road Fund	570,262,000	597,218,900
TOTAL	1,127,828,300	1,154,967,100

1. Included in the above Road Fund appropriation is $209,051,100 in fiscal year 2002-2003 and $218,209,500 in fiscal year 2003-2004 for the State Funded Construction Program.

Included in the State Funded Construction Program is $66,000,000 in fiscal year 2002-2003 and $67,320,000 in fiscal year 2003-2004 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 from the Road Fund for the Specialized Contracts Account.

Included in the State Funded Construction Program is $105,551,100 in fiscal year 2002-2003 and $112,649,500 in fiscal year 2003-2004 from the Road Fund for state construction projects in the 2002-2004 Biennial Highway Construction Program. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

Included in the State Funded Construction Program is $37,000,000 in fiscal year 2002-2003 and $37,740,000 in fiscal year 2003-2004 for the Highway Construction Contingency Account. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

2. Projects in the enacted 2000-2002 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2002-2004 biennium.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2002-2003 and $290,000 in fiscal year 2003-2004 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 from the sale of surplus equipment to purchase new highway equipment.

e. Vehicle Regulation

	2002-03	2003-04
Restricted Funds	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200
Road Fund	30,031,700	31,430,300
TOTAL	39,820,000	40,955,800

f. Debt Service

	2002-03	2003-04
Road Fund	167,660,900	161,312,100

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2002-2003 and $620,600 in fiscal year 2003-2004 for toll road lease-rental payments.

2. Included in the above Road Fund appropriation is $26,334,900 in fiscal year 2002-2003 and $38,889,500 in fiscal year 2003-2004 for Resource Recovery Road lease- rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $140,705,400 in fiscal year 2002-2003 and $121,802,000 in fiscal year 2003-2004 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2002-2004 biennium.

g. General Administration and Support

	2002-03	2003-04
Restricted Funds	29,050,000	29,050,000

Road Fund	70,288,300	75,616,400
TOTAL	99,338,300	104,666,400

Included in the above Road Fund appropriation is $7,165,600 in fiscal year 2002-2003 and $7,335,500 in fiscal year 2003-2004 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

h. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2002, and June 30, 2003, shall not lapse and shall carry forward to the next fiscal year.

TOTAL - TRANSPORTATION CABINET

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	105,002,300	103,075,100
Federal Funds	527,604,300	526,467,000
Road Fund	1,056,205,300	1,087,444,300
TOTAL	1,694,332,200	1,721,861,700

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

96. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2002-03	2003-04
General Fund	1,145,900	1,390,100
Restricted Funds	6,661,200	6,696,400
Federal Funds	190,300	175,400
TOTAL	7,997,400	8,261,900

97. TECHNICAL EDUCATION

	2002-03	2003-04
General Fund	23,346,500	23,861,700
Restricted Funds	20,637,400	19,672,600
Federal Funds	13,037,200	13,037,200
TOTAL	57,021,100	56,571,500

Included in the above General Fund appropriation is $1,600,000 in fiscal year 2002-2003 and $521,000 in fiscal year 2003-2004 to provide for start-up costs for the Lincoln County and Jackson County vocational technical schools. In addition, the above General Fund appropriation includes $644,800 in fiscal year 2002-2003 and $344,600 in fiscal year 2003-2004 to support the ongoing operational costs of the Lincoln County and Jackson County vocational technical schools. Notwithstanding KRS 45.229, funds allocated for the ongoing operational costs remaining at the end of fiscal year 2002-2003 shall not lapse but shall be carried forward to fiscal year 2003-2004.

Notwithstanding KRS 341.835, up to $550,000 from the Unemployment Insurance Penalty and Interest Account in the Department for Employment Services shall be transferred in fiscal year 2002-2003 to the Department for Technical Education to operate training programs.

98. ADULT EDUCATION AND LITERACY

	2002-03	2003-04
General Fund	11,096,100	11,272,400
Restricted Funds	11,104,300	11,104,300
Federal Funds	12,624,500	15,149,400
TOTAL	34,824,900	37,526,100

99. VOCATIONAL REHABILITATION

	2002-03	2003-04
General Fund	11,045,200	11,237,400
Restricted Funds	2,911,100	2,955,100
Federal Funds	43,328,800	44,193,800

TOTAL	57,285,100	58,386,300

100. DEPARTMENT FOR THE BLIND

	2002-03	2003-04
General Fund	1,282,800	1,492,600
Restricted Funds	1,948,800	1,979,000
Federal Funds	7,484,600	7,636,700
TOTAL	10,716,200	11,108,300

101. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2002-03	2003-04
General Fund	4,627,700	4,743,400

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

102. TRAINING AND REEMPLOYMENT

	2002-03	2003-04
Federal Funds	48,530,400	49,350,300

103. EMPLOYMENT SERVICES

	2002-03	2003-04
General Fund	584,200	584,200
Restricted Funds	6,051,700	7,443,500
Federal Funds	617,325,500	509,417,900
TOTAL	623,961,400	517,445,600

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs and up to $550,000 in fiscal year 2002-2003 shall be transferred to the Department for Technical Education to operate training programs.

In addition to supplementing the Unemployment Insurance Trust Fund, Federal Funds available to Kentucky as a result of the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the administration of the unemployment compensation law and the public employment offices for costs allowable under the Unemployment Insurance and Wagner-Peyser Programs, subject to the provisions of KRS 48.630.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	53,128,400	54,581,800
Restricted Funds	49,314,500	49,850,900
Federal Funds	742,521,300	638,960,700
TOTAL	844,964,200	743,393,400

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2002-2004 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04

1. Governor's Office for Technology

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a. Statewide Microwave Network Maintenance		
Investment Income	1,500,000	
b. Unified Criminal Justice Information System		
Reauthorization		

Capital Construction Surplus - Additional	1,000,000	
Restricted Funds	805,000	
TOTAL	1,805,000	
c. KY Information Highway Upgrade Expansion - Additional		
Restricted Funds	1,750,000	1,750,000
d. Enterprise Server Complex Upgrade - Additional		
Restricted Funds	2,370,000	2,370,000
e. Disk Storage Upgrade - Additional		
Restricted Funds	887,000	887,000
f. Tape Storage Upgrade - Additional		
Restricted Funds	645,000	645,000
g. Enterprise Messaging		
Restricted Funds	660,000	
h. Franklin County - Lease		
2. Department of Veterans' Affairs		
a. New State Veterans' Cemetery-Northern KY		
General Fund	50,000	
Federal Funds	9,500,000	
TOTAL	9,550,000	
b. New State Veterans' Cemetery-Central KY		
General Fund	50,000	
Federal Funds	8,900,000	
TOTAL	8,950,000	
3. Kentucky Infrastructure Authority		
a. KIA Fund A - Federally Assisted Wastewater Program		
Bond Funds	6,200,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants Program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

b. KIA Fund F - Drinking Water Revolving Loan Program		
Bond Funds	5,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

c. Kentucky Pride Fund Projects		
Bond Funds	25,000,000	
4. Treasury Department		
a. Checksealer Equipment - Lease - Additional		
Capital Construction Surplus	63,000	63,000
b. Laser Check Printers - Lease - Additional		
Capital Construction Surplus	257,000	256,000
5. Attorney General		
a. Franklin County - Lease		
6. Unified Prosecutorial System - Commonwealth's Attorneys		
a. Jefferson County - Lease		
7. Department of Agriculture		

	a.	Large Scale Tractor		
		Restricted Funds	175,000	
	b.	Purchase of Agriculture Conservation Easements		
		Federal Funds	460,000	
	c.	Livestock Scale Testing Unit		
		Restricted Funds	100,000	
	d.	Franklin County - Lease		
	e.	Animal Shelters		
		Bond Funds	1,600,000	
8.		Department of Military Affairs		
	a.	Construct Maintenance Shop- London		
		Federal Funds	3,640,000	
	b.	Construct Combined Support Maintenance Shop		
		Federal Funds	10,465,000	
	c.	Construct Army Aviation Support Facility		
		Federal Funds	17,500,000	
	d.	Construct Fixed Wing Aviation Facility		
		Federal Funds	4,000,000	
	e.	Upgrade HVAC Ashland Armory (Guaranteed Energy Performance Contract)		
	f.	Upgrade HVAC Owensboro Armory (Guaranteed Energy Performance Contract)		
	g.	Construct Addition to Facilities Building		
		Federal Funds	911,000	
	h.	Maintenance Pool		
		Investment Income	800,000	800,000
	i.	Maintenance Pool - Air Transportation		
		Investment Income	400,000	400,000
	j.	Maintenance Pool - Bluegrass Station		
		Restricted Funds	500,000	500,000
	k.	Franklin County - Lease		
9.		Department for Local Government		
	a.	Flood Control Matching Fund		
		Bond Funds	3,000,000	
		Capital Construction and Equipment Purchase Contingency Fund	300,000	
		TOTAL	3,300,000	
	b.	Renaissance Kentucky		
		Bond Funds	6,000,000	

10. Morgan County - Park Development - Caney Creek

Reauthorization and Reallocation ($30,709 - Bond Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Morgan County Bridge Project appropriated by the 2000 General Assembly in the amount $200,000 in Bond Funds (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 556, Morgan County Bridge Project). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and reallocated to provide for development of a park at the mouth of Caney Creek.

11. Breathitt County - Breathitt County High School Fieldhouse

Reauthorization and Reallocation ($250,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Breathitt County - Breathitt County High School Fieldhouse project appropriated by the 2000 General Assembly in the amount of $250,000 in

Restricted Funds (2000 Ky. Acts ch. 549, Part II, S. Coal Severance Tax Projects, (1) Government Operations, item number 14, Breathitt County - Breathitt County High School Fieldhouse). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and $250,000 is reallocated to Breathitt County Schools and retitled as "Breathitt County-Recreational Playing Areas."

12. Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham

Reauthorization and Reallocation ($200,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham Project appropriated by the 2000 General Assembly in the amount of $500,000 in Restricted Funds (2000 Ky. Acts ch. 549, Part II, S. Coal Severance Tax Projects, (1) Government Operations, item number 175, Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and $200,000 is reallocated to the City of Greenville to provide for a mini-park/green space between the existing court house and the new Judicial Center and for new sidewalks and curbing around the judicial center being constructed in Muhlenberg County, Greenville, Kentucky.

13. Fleming County Fiscal Court - Fire Departments

Reauthorization and Reallocation ($100,000 - General Fund)

The project cited immediately above is authorized from a reallocation of the available balance of the Fleming County Fiscal Court - Environmental Program project appropriated by the 2000 General Assembly in the amount of $100,000 from the General Fund (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects 1. Finance and Administration Cabinet, General Administration, item number 188, Fleming County Fiscal Court - Environmental Program.) In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and $100,000 is reallocated to Fleming County Fiscal Court and entitled Fleming County Fiscal Court - Volunteer Fire Departments to be distributed equally among the five Fleming County Volunteer Fire Departments.

14. Kentucky Retirement Systems
    a. Franklin County - Lease
    b. Franklin County - Lease
15. Board of Nursing
    a. Jefferson County – Lease
16. Kentucky River Authority
    a. Kentucky River Storage Enhancements

Restricted Funds	30,000	2,500,000

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	2002-03	2003-04
1. Economic Development Projects		
a. New Economy High-Tech Investment/Construction Pool		
Restricted Funds	10,000,000	10,000,000

The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High-Tech Construction Pool.

b. Kentucky Economic Development Finance Authority Bond Pool		
Bond Funds	20,000,000	

C. EDUCATION

Budget Unit	2002-03	2003-04
1. Department of Education		
a. Security, Fire Alarm, & Energy Systems - Kentucky School for the Blind		
Bond Funds	450,000	
b. Replace Kerr Hall HVAC - Kentucky School for the Deaf		
Bond Funds	1,067,000	
c. Maintenance Pool		
Investment Income	600,000	600,000
d. Roof Repair - Kentucky School for the Deaf		
Capital Construction Surplus	520,000	

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit			2002-03	2003-04
1.	School Facilities Construction Commission			
	Reauthorization ($28,000,000 Bond Funds)			
		Bond Funds - Additional	104,600,000	
2.	Kentucky Educational Television			
	a. Camera Replacement			
		Restricted Funds	445,000	
3.	Kentucky Center for the Arts			
	a. Maintenance Pool			
		Investment Income	150,000	150,000
	b. Chiller Replacement			
		Investment Income	250,000	
	c. Water Leak and Window Repair			
		Deferred Maintenance	957,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit		2002-03	2003-04
1.	Administration Services		
	a. Lease - Disability Determinations Franklin County		
	b. Lease - Fayette County		
	c. Lease - Warren County		
	d. Lease - Kenton County		
	e. Lease including expansion - Jefferson County		
	f. Lease - Hardin County		
	g. Lease - Kenton County		
	h. Lease - Campbell County		
	i. Lease - Child Support Franklin County		
	j. Lease including expansion - Letcher County		
	k. Lease - OTS Franklin County		
	l. Lease including expansion - Harlan County		
	m. Lease including expansion - Henderson County		
	n. Lease including expansion - Perry County		
	o. Lease - Shelby County		
	p. Lease including expansion - Fayette County		
	q. Lease - Johnson County		
	r. Lease including expansion - Boyd County		
	s. Lease including expansion - Boone County		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit			2002-03	2003-04
1.	Department for Administration			
	a. Franklin County - Lease			
2.	Department for Facilities Management			
	a. Capitol Historic Restoration/Asbestos Removal/Repair - State Office Building			
		Reauthorization/Reallocation		
		(6,000,000 - Bond Funds)		
	b. Energy Efficiency in State Government Buildings			
		Restricted Funds	1,075,000	
	c. Replace Roof - Civic Center			

Investment Income	1,200,000	
d. Maintenance Pool		
Investment Income	3,644,000	3,500,000
Restricted Funds	240,000	100,000
TOTAL	3,884,000	3,600,000
e. Modernize Elevators/Escalators - Various Buildings		
Investment Income	1,300,000	
f. Install Building Security Systems - Various Buildings		
Restricted Funds	750,000	
g. Capital Construction and Equipment Purchase Contingency Fund		
Restricted Funds	3,350,000	
h. Emergency Repair, Maintenance and Replacement Fund		
Restricted Funds	4,195,000	
3. Lottery Corporation		
a. Network Storage and Associated Infrastructure		
Other Funds	930,000	
b. Contingency on Property Adjacent to New Headquarters		
Other Funds	3,500,000	
c. Data Processing, Telecommunication, and Related Equipment		
Other Funds	3,500,000	
d. Potential Buyout of On-Line Gaming System		
Other Funds	18,450,000	
e. Instant Ticket Vending Machine		
Other Funds	900,000	900,000
f. Pull Tab Ticket Vending Machines		
Other Funds	1,500,000	1,500,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
1. Public Health		
a. Kentucky All Schedule Prescription Electronic Reporting		
Bond Funds	1,474,000	
2. Department for Mental Health/Mental Retardation Services		
a. Miscellaneous Roof Replacement/Repair Pool		
Bond Funds	700,000	
b. Statewide Chiller Replacement Pool		
Bond Funds	612,000	
c. Franklin County - Lease		
d. Maintenance Pool		
Investment Income	1,400,000	1,400,000
e. Water Piping Replacement System - Eastern State Hospital/Veterans Hospital Relocation		
Reauthorization & Reallocation		
Capital Construction Surplus - Additional250,000		
f. Sprinkler System - Western State Hospital		
Bond Funds	2,200,000	
g. Structural Repair/Renovation - Oakwood		

Bond Funds	2,009,000	
h. Sprinkler System - Central State Hospital		
Investment Income	850,000	
i. Veterans Administration Hospital - Lease		

H. JUSTICE CABINET

Budget Unit	2002-03	2003-04
1. Justice Administration		
a. Purchase 2 Gas/Liquid Chromatograph Mass/Spectrometers		
Capital Construction Surplus	250,000	
2. Department of State Police		
a. Purchase of Equipment for DNA Analysis		
Restricted Funds	136,000	136,000
b. Maintenance Pool		
Investment Income	250,000	250,000
3. Department of Juvenile Justice		
a. Combined Residential/Detention Facility - Hardin -Additional		
Federal Funds	1,000,000	
b. Secure Juvenile Detention Facility #3 - Boyd - Additional		
Federal Funds	500,000	
c. Maintenance Pool		
Investment Income	400,000	400,000
d. Purchase Land/Build Gym/Class Cadet Leadership/Education Program		
Restricted Funds	130,000	
Federal Funds	1,170,000	
TOTAL	1,300,000	
e. Add Classrooms - Green River Youth Development Center		
Restricted Funds	60,000	
Federal Funds	540,000	
TOTAL	600,000	
4. Corrections Management		
a. Replace/Repair Roofs - Green River Correctional Complex		
Bond Funds	2,500,000	
b. Replace Underground Steam & Condensate Lines - Blackburn Correctional Complex		
Bond Funds	1,260,000	
c. Replace Fire Alarm System - Luther Luckett Correctional Complex		
Bond Funds	1,000,000	
d. Replace Dorm Roofs - Northpoint Training Center		
Bond Funds	600,000	
e. Replace Four Color Heidelberg Printing Press		
Restricted Funds	900,000	
f. Purchase Plascon Bagmaking Machine		
Restricted Funds	160,000	
g. Various Adult Correctional Institutions (Guaranteed Energy Performance Contract)		
h. Maintenance Pool		
Investment Income	1,800,000	1,800,000
i. New Medium Security Facility/Design Elliott County Phase II		

Reauthorization and Reallocation (1,800,000 - Bond Funds)
j. Fayette County - Lease
k. Boot Camp/Substance Abuse Treatment Center-Roederer Correctional Complex Reauthorization and Reallocation (1,004,000 - Bond Funds)

I. LABOR CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. Franklin County - Lease		
2. Workers' Claims		
a. Franklin County - Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. KY Heritage Land Conservation		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
TOTAL	4,000,000	4,000,000
b. Maintenance Pool		
Investment Income	100,000	100,000
2. Department for Environmental Protection		
a. Hazardous Waste Management Fund		
Restricted Funds	2,100,000	2,100,000
b. Leaking Underground Storage Tanks		
Restricted Funds	500,000	500,000
c. State-Owned Dam Repair - Additional		
Bond Funds	1,000,000	
d. Franklin County - Lease (Water)		
e. Franklin County - Lease (Air Quality)		
f. Construct Deep Well Monitoring - Maxey Flats		
Capital Construction and Equipment Purchase Contingency Fund	500,000	
3. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease		
4. Kentucky Nature Preserves Commission		
a. KY Nature Preserves Acquisition		
Other Funds	300,000	300,000

K. PERSONNEL CABINET

Budget Unit	2002-03	2003-04
1. Personnel		
a. Franklin County - Lease		
b. Computer Equipment - Kentucky Employees' Self-Service Project		
Capital Construction Surplus	200,000	

L. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
1. Council on Postsecondary Education		
a. Agency Bond Pool		
Agency Bonds	31,300,000	
b. Franklin County - Lease		

	c.	Research Challenge Trust Fund - Endowment Match	
		Bond Funds	100,000,000
	d.	Regional University Excellence Trust Fund - Endowment Match	
		Bond Funds	20,000,000
2.	Kentucky Higher Education Assistance Authority		
	a.	Upgrade Information Technology Systems	
		Restricted Funds	650,000
	b.	Franklin County - Lease	
	c.	KY Higher Education Student Loan Corporation	
		Lease - Jefferson County	
3.	Eastern Kentucky University		
	a.	Maintenance Pool	
		Restricted Funds	10,000,000
	b.	E & G Life Safety Begley Elevator	
		Restricted Funds	750,000
	c.	Various Buildings	
		(Guaranteed Energy Savings Project)	
	d.	Expand, Upgrade Campus Data Network	
		Restricted Funds	1,000,000
	e.	Purchase Network Education System Component	
		Restricted Funds	2,050,000
	f.	Upgrade Academic Computing	
		Restricted Funds	1,000,000
	g.	Upgrade Administrative Computing System	
		Restricted Funds	1,100,000
	h.	Property Acquisition	
		Restricted Funds	3,000,000
	i.	Replace Student Housing, Brockton	
		Restricted Funds	8,250,000
	j.	Expand and Renovate Presnell Building	
		Restricted Funds	2,000,000
	k.	Expand Indoor Tennis Facility	
		Restricted Funds	1,000,000
	l.	Watts Property (Elmwood) Renovation	
		Restricted Funds	2,000,000
	m.	Greek Row	
		Reauthorization	
	n.	High Voltage Electrical Distribution System	
		Agency Bonds	10,500,000
	o.	Construction of New Water Line -	
		Corbin Campus/Reauthorization and Reallocation	
		Bond Funds (422,000)	
4.	Kentucky State University		
	a.	Renovate and Expand Student Center	
		Reauthorization	
		Restricted Funds - Additional	4,400,000
	b.	Young Hall Renovation	
		Reauthorization	

		Restricted Funds - Additional	6,214,000	
	c.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	1,500,000	
	d.	Migrate to Client-Server and Laptop Campus Technology		
		Restricted Funds	860,000	
	e.	Enhance Distance Education		
		Restricted Funds	560,000	
	f.	Extend Fiber Network to South Campus		
		Restricted Funds	806,000	
	g.	Enhance Web Site		
		Restricted Funds	410,000	
	h.	Implement Smart Card Technology		
		Restricted Funds	1,120,000	
	i.	Various Buildings (Guaranteed Energy Savings Project)		
	j.	Cooperative Extension Building Expansion		
		Reauthorization		
		Restricted Funds - Additional	3,224,000	
5.		Morehead State University		
	a.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	3,414,000	3,414,000
	b.	Life Safety: Auxiliary Facilities		
		Restricted Funds	3,000,000	
	c.	Parking Structure		
		Restricted Funds	6,000,000	
	d.	Life Safety: E & G Facilities		
		Restricted Funds	1,350,000	
	e.	Life Safety: Claypool-Young Building		
		Restricted Funds	500,000	
	f.	Americans with Disabilities Act - E & G		
		Restricted Funds	600,000	600,000
	g.	Combs Theatre Area Reclamation		
		Restricted Funds	1,100,000	
	h.	Button Auditorium Renovation		
		Restricted Funds	3,000,000	
	i.	Various Buildings (Guaranteed Energy Savings Project)		
	j.	Americans with Disabilities Act - Auxiliary		
		Restricted Funds	600,000	600,000
	k.	Land Acquisitions Related to Master Plan		
		Restricted Funds	2,000,000	
	l.	Instructional Technology Initiatives		
		Restricted Funds	2,159,000	
	m.	HPLC-Mass Spectrometer		
		Restricted Funds	140,000	
	n.	Instructional and Support Equipment		
		Restricted Funds	1,334,000	
	o.	Nuclear Magnetic Resonance Equipment		

	Restricted Funds	210,000
p.	Network/Infrastructure Resources	
	Restricted Funds	2,250,000
q.	Library Automation Resources	
	Restricted Funds	750,000
r.	Distance Learning Systems	
	Restricted Funds	2,500,000
s.	Compressed Video Resources	
	Restricted Funds	1,891,000
t.	Instructional PC's/LANS/Peripherals	
	Restricted Funds	2,500,000
u.	Administrative Office Systems	
	Restricted Funds	2,000,000
v.	Central Campus Reconstruction	
	Restricted Funds	780,000
w.	Student Wellness Center Expansion	
	Restricted Funds	700,000
x.	Kentucky Center for Traditional Music - Phase I	
	Restricted Funds	1,000,000
y.	Construction of Family Housing Complexes - Phase II	
	Restricted Funds	4,000,000
z.	Tour Bus	
	Restricted Funds	400,000
6.	Murray State University	
a.	Construct Recreation/Wellness Center	
	Restricted Funds	10,000,000
b.	Equine Instruction Facility Addition	
	Restricted Funds	650,000
c.	Various Buildings (Guaranteed Energy Savings Project)	
d.	Campus Electrical Distribution System Upgrade	
	Restricted Funds	10,765,000
e.	Construct New Dormitories	
	Restricted Funds	10,154,000
f.	Woods Hall Mechanical and HVAC System Upgrade	
	Restricted Funds	2,000,000
g.	Land Acquisition	
	Restricted Funds	500,200
h.	Elizabeth Hall Asbestos Ceilings	
	Restricted Funds	450,000
i.	Hester Hall Asbestos Ceilings	
	Restricted Funds	450,000
j.	College Courts Renovation	
	Restricted Funds	3,636,000
k.	College Courts Interiors (12 Buildings) Renovation	
	Restricted Funds	2,000,000
l.	Clark Hall Replacement	
	Restricted Funds	8,000,000

m.	Clark Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
n.	Replace Richmond Hall	
	Restricted Funds	8,000,000
o.	College Courts Electrical System Upgrade	
	Restricted Funds	1,200,000
p.	Franklin Hall Replacement	
	Restricted Funds	8,000,000
q.	Heating and Cooling Plant Boiler Replacement	
	Restricted Funds	666,000
r.	Sparks Hall Electrical System Upgrade	
	Restricted Funds	952,000
s.	Wells Hall Electrical System Upgrade	
	Restricted Funds	600,000
t.	Applied Science Electrical System Upgrade	
	Restricted Funds	850,000
u.	Renovate Sparks Hall HVAC System	
	Restricted Funds	500,000
v.	Special Education HVAC System	
	Restricted Funds	500,000
w.	Pogue Library Electric and HVAC Renovation	
	Restricted Funds	750,000
x.	Business Building Electricity, HVAC and Classrooms Phase I	
	Restricted Funds	1,530,000
y.	General Services HVAC System Renovation	
	Restricted Funds	500,000
z.	E & G Chiller/CFC Compliance Replacement	
	Restricted Funds	585,000
aa.	Doyle Fine Arts HVAC and Energy Replacement/Retrofit	
	Restricted Funds	750,000
ab.	Richmond Hall (Residential College) Renovation	
	Restricted Funds	2,500,000
ac.	Richmond Hall Interior Renovation	
	Restricted Funds	500,000
ad.	Richmond Hall Water Piping/Fixtures Replacement	
	Restricted Funds	600,000
ae.	Clark Hall Interior Renovation	
	Restricted Funds	500,000
af.	Clark Hall Electrical System Renovation	
	Restricted Funds	400,000
ag.	Clark Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ah.	Franklin Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ai.	Franklin Hall Electrical System Renovation	
	Restricted Funds	400,000
aj.	Franklin Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000

ak.	Franklin Hall Interior Renovation	
	Restricted Funds	600,000
al.	Springer Hall HVAC and Electrical System Renovation	
	Restricted Funds	2,000,000
am.	Richmond Hall Electrical System Renovation	
	Restricted Funds	400,000
an.	Springer Hall Water Piping, Fixtures Replacement	
	Restricted Funds	800,000
ao.	Springer Hall Interior Renovation	
	Restricted Funds	600,000
ap.	Hart Hall Renovation	
	Restricted Funds	5,000,000
aq.	Hart Hall Chiller, Boilers, Towers Replacement	
	Restricted Funds	1,200,000
ar.	Hart Hall Electrical System Renovation	
	Restricted Funds	650,000
as.	Elizabeth Hall Electrical System Renovation	
	Restricted Funds	550,000
at.	Hester Hall HVAC System Renovation	
	Restricted Funds	1,000,000
au.	Hester Hall Interior Renovation	
	Restricted Funds	700,000
av.	Hester Hall Boiler, Water Heater Replacement	
	Restricted Funds	600,000
aw.	Hester Hall Electrical System Renovation	
	Restricted Funds	580,000
ax.	Winslow Cafeteria Mechanical Equipment Replacement	
	Restricted Funds	500,000
ay.	Winslow Cafeteria Exterior Repair	
	Restricted Funds	500,000
az.	Elizabeth Hall HVAC System Renovation	
	Restricted Funds	1,200,000
ba.	White Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bb.	White Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bc.	White Hall Electrical System Renovation	
	Restricted Funds	600,000
bd.	White Hall Interior Renovation	
	Restricted Funds	700,000
be.	Regents Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bf.	Regents Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bg.	Regents Hall Electrical System Renovation	
	Restricted Funds	650,000
bh.	Regents Hall Interior Renovation	
	Restricted Funds	800,000

bi.	Hart Hall Interior Renovation	
	Restricted Funds	1,200,000
bj.	Elizabeth Hall Interior Renovation	
	Restricted Funds	700,000
bk.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	16,885,000
bl.	Telephone Switching System Replacement	
	Restricted Funds	1,000,000
bm.	Waterfield Library HVAC and Mechanical Replacement	
	Restricted Funds	500,000
bn.	Campus Network to Gigabit Ethernet Upgrade	
	Restricted Funds	1,000,000
bo.	Lovett Auditorium Shell/Seats Replacement and Repair	
	Restricted Funds	550,000
bp.	350-Ton Chiller - Regional Special Events Center	
	Restricted Funds	400,000
bq.	COLT Ubiquitous Computing	
	Restricted Funds	434,000
br.	Baseball Field and Stadium Sidewalk Light	
	Restricted Funds	600,000
bs.	BVC Electron Microscope - Scanning	
	Restricted Funds	300,000
bt.	BVC Electron Microscope - Transmission	
	Restricted Funds	250,000
bu.	Broadcasting Education Lab Equipment	
	Restricted Funds	200,000
bv.	Business and Public Affairs Equipment	
	Restricted Funds	300,000
bw.	Central On-Line Storage System	
	Restricted Funds	966,000
bx.	College of Science Instructional/Research Equipment	
	Restricted Funds	300,000
by.	Fine Arts Studio Equipment	
	Restricted Funds	419,000
bz.	ICP-MS Fisions Instruments	
	Restricted Funds	142,000
ca.	Music Computer Equipment	
	Restricted Funds	250,000
cb.	Optics Lab Equipment	
	Restricted Funds	170,000
cc.	Recording/Playback Lab & Instrument	
	Restricted Funds	188,000
7.	Northern Kentucky University	
a.	New Student Union Design	
	Restricted Funds	1,200,000
b.	Power Distribution Infrastructure Replacement	
	Restricted Funds	700,000
c.	Structure in AS and T Center Repair	

		Restricted Funds	500,000	
	d.	Welcome Center Renovation		
		Restricted Funds	700,000	
	e.	Capital Renewal and Maintenance Projects		
		Restricted Funds	2,315,000	
	f.	Land Acquisition		
		Restricted Funds	2,500,000	
	g.	Central Plaza Reconstruction		
		Restricted Funds	900,000	
	h.	Digital Telecom System		
		Restricted Funds	1,900,000	
	i.	Baseball Field Relocation		
		Restricted Funds	1,500,000	
	j.	Information Technology Infrastructure		
		Restricted Funds	2,700,000	
	k.	Administrative Application System		
		Restricted Funds	2,500,000	
	l.	Intramural Sports Field		
		Restricted Funds	750,000	
	m.	Coach Bus		
		Restricted Funds	375,000	
	n.	Color Press		
		Restricted Funds	235,000	
	o.	NMR Spectrometer		
		Restricted Funds	385,000	
	p.	Various Buildings (Guaranteed Energy Savings Project)		
	q.	New Residence Hall		
		Reauthorization		
	r.	Construct Parking Deck		
		Restricted Funds	9,100,000	
	s.	Metropolitan Education and Training Center - Lease		
8.	University of Kentucky			
	a.	Early Childhood Education Lab		
		Restricted Funds	8,000,000	
	b.	Replace Oswald Building Roof		
		Restricted Funds	1,089,000	
	c.	Improve Storm Sewer Funkhouser		
		Restricted Funds	1,003,000	
	d.	Renovate Agriculture Building North Facade		
		Restricted Funds	3,820,000	
	e.	Renovate King South Building I		
		Restricted Funds		8,025,000
	f.	Upgrade Vivarium, I		
		Restricted Funds		4,000,000
	g.	Replace Central Fire Alarm System		
		Restricted Funds		3,000,000
	h.	Replace Central Facilities Management System		

	Restricted Funds		3,000,000
i.	Replace Steam and Condensate Pipe		
	Restricted Funds		5,350,000
j.	Improve Central Heating Plant		
	Restricted Funds		2,750,000
k.	Replace Master Clock and Bell System		
	Restricted Funds		1,500,000
l.	Replace High Voltage Wiring		
	Restricted Funds		441,000
m.	Replace Three Elevators MIK Library South		
	Restricted Funds		742,000
n.	Abate Mercury Lexington Campus - Life Safety		
	Restricted Funds	1,000,000	
o.	Upgrade Fume Hoods -LC - Life Safety		
	Restricted Funds	7,015,000	
p.	Upgrade Pharmacy Fume Hood I - Life Safety		
	Restricted Funds	4,300,000	
q.	Abate Asbestos LC II - Life Safety		
	Restricted Funds	500,000	
r.	Improve Indoor Air Quality - Phase I - Life Safety		
	Restricted Funds		500,000
s.	Upgrade HVAC - CAER Ph. III - Life Safety		
	Restricted Funds		450,000
t.	Improve Barker Hall - Life Safety		
	Restricted Funds		500,000
u.	Improve Life Safety, Project Pool		
	Restricted Funds		3,708,000
v.	Renovate Livestock Disease Diagnostics Laboratory		
	Restricted Funds		2,800,000
w.	Improve Handicapped Access, Project Pool		
	Restricted Funds		1,908,000
x.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	16,388,000	
y.	Construct Environmental Institute		
	Restricted Funds		12,604,000
z.	Renovate the COHR in the Dental Building		
	Restricted Funds		1,875,000
aa.	Install Chilled Water Pipe-Clg 2 to Pit		
	Restricted Funds		1,300,000
ab.	Install Cooling Secondary Pumping		
	Restricted Funds		2,250,000
ac.	Renovate Medical Center Library		
	Restricted Funds		2,000,000
ad.	Install Medical Center Chilled Water Loop		
	Restricted Funds		625,000
ae.	Expand Plant Capacity/Infrastructure		
	Restricted Funds	15,000,000	
af.	Renovate Education Space in Medical Science		

	Restricted Funds		2,300,000
ag.	Renovate Outpatient Clinic in Kentucky Clinic		
	Restricted Funds		2,000,000
ah.	Replace Cooling Plant Chillers		
	Restricted Funds		5,000,000
ai.	Install HVAC in Keeneland Hall		
	Restricted Funds		2,962,000
aj.	Renovate Cooperstown - Phase IVA		
	Restricted Funds		1,279,000
ak.	Install HVAC in Jewell Hall		
	Restricted Funds		1,290,000
al.	Install HVAC in Boyd Hall		
	Restricted Funds		1,715,000
am.	Renovate Labs in the Pharmacy Building		
	Restricted Funds		1,400,000
an.	Renovate Cooperstown - Phase IV		
	Restricted Funds		426,000
ao.	Renovate Parking Structure #1		
	Restricted Funds		7,714,000
ap.	Replace Holmes Elevator		
	Restricted Funds		585,000
aq.	Construct Parking Structure		
	Restricted Funds		16,280,000
ar.	Expand Patient Parking in Structure #3		
	Restricted Funds		7,000,000
as.	Install HVAC in Holmes Hall		
	Restricted Funds		1,700,000
at.	Acquire Land		
	Restricted Funds	15,000,000	
au.	Renovate Running Track		
	Restricted Funds	2,500,000	
av.	Renovate Research Labs in Medical Center, I		
	Restricted Funds		750,000
aw.	Fit-up Research Labs - Allied Health Building		
	Restricted Funds		7,000,000
ax.	Renovate Research Labs in Medical Center, II		
	Restricted Funds		900,000
ay.	Renovate Research Space-Nursing Building		
	Restricted Funds		540,000
az.	Upgrade Communication Infrastructure, II		
	Restricted Funds		450,000
ba.	Renovate Research Space Medical Center, I		
	Restricted Funds		800,000
	Federal Funds		700,000
	TOTAL		1,500,000
bb.	Lease Purchase Campus Infrastructure Upgrade		
	Restricted Funds		3,500,000
bc.	Lease Purchase High Performance Research Computer		

	Restricted Funds	5,000,000	
bd.	Lease Purchase Computing Facility Uninterruptable Power Supply		
	Restricted Funds	400,000	
be.	Lease Purchase Large Scale Computing		
	Restricted Funds	3,500,000	
bf.	Lease Purchase Networked Printer		
	Restricted Funds	200,000	
bg.	Lease Purchase Pool		
	Restricted Funds		10,401,000
bh.	Lease Purchase Telephone Switch		
	Restricted Funds		3,000,000
bi.	Lease Purchase Video Switch		
	Restricted Funds	250,000	
bj.	3-D Scaling Device		
	Federal Funds		100,000
bk.	ABI Prism Sequence Detection System		
	Restricted Funds		100,000
bl.	Analytical Biosensor		
	Restricted Funds	275,000	
bm.	Area Detector Diffractometer		
	Restricted Funds	155,000	
	Federal Funds	155,000	
	TOTAL	310,000	
bn.	Automated DNA Sequencer		
	Restricted Funds	130,000	
bo.	Behavioral Monitoring & Analysis System		
	Restricted Funds	150,000	
bp.	Campus Call Auto Dial		
	Restricted Funds	125,000	
bq.	Capillary Genetic Analyzers		
	Restricted Funds	800,000	
br.	Chain Reaction Analyzer		
	Restricted Funds	150,000	
bs.	Chromatograph Mass Spectrometer, I		
	Restricted Funds	250,000	
bt.	Chromatograph Mass Spectrometer, II		
	Restricted Funds	258,000	
bu.	Combination Metabolic Analyzer		
	Restricted Funds	123,000	
bv.	Compressed Video-Hazard		
	Restricted Funds	141,000	
bw.	Confocal Microscope		
	Restricted Funds	325,000	
bx.	Confocal Microscope		
	Restricted Funds	200,000	
by.	Database Testbed		
	Restricted Funds	225,000	
bz.	Digital Router		

	Restricted Funds	100,000	
ca.	DNA Chip Analysis System		
	Restricted Funds		160,000
cb.	DNA Microarray Chip Reader		
	Federal Funds		450,000
cc.	DNA Microarray Facility		
	Restricted Funds	300,000	
cd.	DNA Microarray System		
	Restricted Funds		285,000
ce.	DNA Sequencer		
	Restricted Funds	135,000	
cf.	DNA Sequencer		
	Restricted Funds	125,000	
cg.	DNA Sequencer, I		
	Restricted Funds	134,000	
ch.	DNA Sequencer, II		
	Restricted Funds	158,000	
ci.	DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
cj.	DNA Synthesizer		
	Restricted Funds	103,000	
ck.	Electron Spin Resonance Instrument		
	Restricted Funds	100,000	
	Federal Funds	100,000	
	TOTAL	200,000	
cl.	Electrophysiologic Analysis System		
	Restricted Funds	207,000	
cm.	Encapsulator		
	Restricted Funds	151,000	
cn.	Environmental Test System		
	Restricted Funds	125,000	
co.	Epi-Fluorescence Microscope		
	Restricted Funds	134,000	
cp.	ESCA-X-Ray Photoelectron Spectroscopy		
	Restricted Funds	400,000	
cq.	Flow Cytometer		
	Restricted Funds	108,000	
cr.	Flow Cytometry Lab Equipment		
	Restricted Funds	375,000	
cs.	Fluorescent Microscope & Image Analyzer		
	Restricted Funds	150,000	
ct.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
cu.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cv.	Fluorescent Analyzer		
	Restricted Funds	109,000	
cw.	Fluorescent Activated Cell Sorter		

	Restricted Funds	237,000	
cx.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
cy.	Forage Harvester System		
	Restricted Funds	150,000	
cz.	Freeze-Thaw Apparatus		
	Restricted Funds		100,000
da.	Garbage Truck Front Loader		
	Restricted Funds	165,000	
db.	Gas Analyzer		
	Restricted Funds	100,000	
dc.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds		101,000
dd.	Gas Chromatograph/MSD		
	Restricted Funds	110,000	
de.	Gas Chromatograph Mass Spectrograph		
	Restricted Funds		186,000
df.	Gene Chip Analysis Machine		
	Restricted Funds		250,000
dg.	Gene Chip Instrument System		
	Restricted Funds	450,000	
dh.	Genetic Analyzer		
	Restricted Funds		140,000
di.	GIS Teaching Lab		
	Restricted Funds	160,000	
dj.	GVG Video Switch		
	Restricted Funds	250,000	
dk.	High Performance Liquid Chromatography		
	Restricted Funds	131,000	
dl.	High Power CO2 Laser		
	Restricted Funds		250,000
dm.	High Pressure Liquid Chromatograph		
	Restricted Funds		100,000
	Federal Funds		100,000
	TOTAL		200,000
dn.	High Resolution Optical Microscope		
	Restricted Funds	110,000	
do.	High Resolution Phosophor Imager		
	Restricted Funds	206,000	
dp.	High Temperature Optical Microscope		
	Restricted Funds		105,000
dq.	High-Speed Signal Processor		
	Federal Funds	150,000	
dr.	Holographic System/Image Analyzer		
	Restricted Funds		110,000
ds.	HPLC Mass Spectrophotometer		
	Restricted Funds	220,000	
dt.	Image Analysis System		

	Restricted Funds	206,000	
du.	Image Analyzer System		
	Restricted Funds	206,000	
dv.	Inductive Coupled Plasma Spectrometer		
	Restricted Funds		110,000
dw.	Inductive Coupled Plasma Unit		
	Restricted Funds	110,000	
dx.	Inductive Coupled Spectrometer System		
	Restricted Funds		120,000
dy.	Interaction Analyzer		
	Restricted Funds	150,000	
dz.	Inverted Microscope-Fluoroscope		
	Restricted Funds	155,000	
ea.	Inverted Scope		
	Restricted Funds		100,000
eb.	Laser Confocal Microscope		
	Restricted Funds	312,000	
ec.	Laser System		
	Restricted Funds	125,000	
	Federal Funds	125,000	
	TOTAL	250,000	
ed.	LCT Flight Mass Spectrometer		
	Restricted Funds	220,000	
ee.	LIMS Bioinformatics Equipment		
	Federal Funds		136,000
ef.	Liquid Chromatograph		
	Restricted Funds		105,000
eg.	Liquid Chromotograph-Mass Spectrometer		
	Restricted Funds		320,000
eh.	Liquid Filling/Stoppering Line		
	Restricted Funds	351,000	
ei.	Mass Spectrometer		
	Restricted Funds		400,000
ej.	MB Ultracentrifuge		
	Restricted Funds	354,000	
ek.	MB/GT Phospho-Imager		
	Restricted Funds	128,000	
el.	Multiphoton Imaging System		
	Restricted Funds	505,000	
em.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
en.	Multiunit Microbial Chamber		
	Restricted Funds	250,000	
eo.	NIR Spectrophotometer		
	Restricted Funds	125,000	
ep.	Open MRI Unit		
	Restricted Funds		1,000,000
eq.	Optical Disk Server		

	Restricted Funds		180,000
er.	Patient Classification Equipment		
	Restricted Funds		260,000
es.	Physiology Workstation		
	Restricted Funds	101,000	
et.	Protein Synthesizer		
	Restricted Funds		206,000
eu.	Quadrapole Mass Spectrometer		
	Restricted Funds	360,000	
ev.	Rapid Scanning Monochrometer		
	Restricted Funds		130,000
ew.	Research Grade Light Microscope		
	Restricted Funds		103,000
ex.	Scanning Electron Microscope		
	Restricted Funds	175,000	
ey.	Semi-solid Manufacturing Equipment		
	Restricted Funds		211,000
ez.	Sequence Detection System		
	Restricted Funds		100,000
fa.	Spectograph for Oligonucleotide Analysis		
	Restricted Funds	250,000	
fb.	Studio Recording Equipment		
	Restricted Funds		113,000
fc.	Telemedicine Rural Health		
	Restricted Funds		416,000
fd.	Telemedicine Systems		
	Restricted Funds		600,000
fe.	Terminal Sterilizing Autoclave		
	Restricted Funds		221,000
ff.	Ultracentrifuge		
	Restricted Funds	117,000	
fg.	Virtual Environment Simulator		
	Restricted Funds		125,000
fh.	X-Ray Defractometer		
	Federal Funds		700,000
fi.	Upgrade Scanner System		
	Restricted Funds		500,000
fj.	Upgrade HVAC II - Hospital		
	Restricted Funds	3,500,000	
fk.	Renovate Roach Building 4th Floor - Hospital		
	Restricted Funds	3,990,000	
fl.	Consolidate Imaging Services - Hospital		
	Restricted Funds		3,675,000
fm.	Construct Storage/Distribution Center - Hospital		
	Restricted Funds		1,019,000
fn.	Construct Limited-Stay Facility - Hospital		
	Restricted Funds		5,460,000
fo.	Renovate Kitchen I - Hospital		

	Restricted Funds	1,050,000	
fp.	Implement Land Use Plan III - Hospital		
	Restricted Funds	2,625,000	
fq.	Construct Parking Structure III - Hospital		
	Restricted Funds		7,350,000
fr.	Protect Environment II - Hospital		
	Restricted Funds	1,575,000	
fs.	Upgrade Transport Systems IV - Hospital		
	Restricted Funds	735,000	
ft.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,100,000	
fu.	Modify Nursing Unit XII - Hospital		
	Restricted Funds		3,500,000
fv.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	
fw.	Construct Outpatient Services III - Hospital		
	Restricted Funds	4,700,000	
fx.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds		1,000,000
fy.	Implement Land Use Plan IV - Hospital		
	Restricted Funds		2,500,000
fz.	Upgrade Transport Systems V - Hospital		
	Restricted Funds		800,000
ga.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	
gb.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,172,000	
gc.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	
gd.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds		1,500,000
ge.	Upgrade Building/Site IV - Hospital		
	Restricted Funds		800,000
gf.	Expand Parking II - Hospital		
	Restricted Funds	3,200,000	
gg.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	7,638,000	
gh.	Construct Primary Care Center II - Hospital		
	Restricted Funds		10,172,000
gi.	Construct Building Connectors III - Hospital		
	Restricted Funds	3,000,000	
gj.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital		
	Restricted Funds	12,672,000	
gk.	Construct Outpatient Care Facility II - Hospital		
	Restricted Funds		6,172,000
gl.	Upgrade Communication Services - Hospital		
	Restricted Funds		1,000,000
gm.	Construct Business Facility II - Hospital		

	Restricted Funds		9,000,000
gn.	Create Universal Nursing Unit - Hospital		
	Restricted Funds	1,000,000	
go.	Design Patient Bed Tower - Hospital		
	Restricted Funds	10,000,000	
gp.	Expand Surgical Services - Hospital		
	Restricted Funds	3,200,000	
gq.	Accelerator		
	Restricted Funds	1,600,000	
gr.	Angiography Unit		
	Restricted Funds	1,740,000	
gs.	Angiography Unit		
	Restricted Funds	1,276,000	
gt.	ATL Ultrasound		
	Restricted Funds	220,000	
gu.	Biplane Angiography		
	Restricted Funds	1,160,000	
gv.	Cardiac Catheterization Image Management System		
	Restricted Funds	957,000	
gw.	Cardiac Ultrasound		
	Restricted Funds	1,600,000	
gx.	C-Arm X-Ray Unit		
	Restricted Funds	350,000	
gy.	C-Arm X-Ray Unit		
	Restricted Funds	440,000	
gz.	C-Arm X-Ray Unit		
	Restricted Funds	275,000	
ha.	Clinical System Enterprise		
	Restricted Funds	5,800,000	
hb.	Computing Infrastructure Update		
	Restricted Funds	2,500,000	
hc.	CR PAC Server		
	Restricted Funds	275,000	
hd.	CT Scanner		
	Restricted Funds	1,914,000	
he.	CT Scanners		
	Restricted Funds	3,480,000	
hf.	CT Simulator		
	Restricted Funds	1,160,000	
hg.	CT Simulator		
	Restricted Funds	1,200,000	
hh.	Data Storage Facility		
	Restricted Funds	750,000	
hi.	Diagnostic Radiology Unit		
	Restricted Funds	330,000	
hj.	Digital Medical Record Expansion		
	Restricted Funds	4,640,000	
hk.	Digital Enhancement		

	Restricted Funds	1,085,000
hl.	Digital Imaging	
	Restricted Funds	957,000
hm.	Digital Orbitor Camera	
	Restricted Funds	275,000
hn.	Digital Radiology	
	Restricted Funds	4,060,000
ho.	Digital Radiology	
	Restricted Funds	1,020,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	EKG Unit	
	Restricted Funds	440,000
hr.	Electrophysiology Lab	
	Restricted Funds	5,800,000
hs.	EMG Unit	
	Restricted Funds	250,000
ht.	Endoscopic Ultrasound	
	Restricted Funds	440,000
hu.	Endoscopic Video System	
	Restricted Funds	300,000
hv.	Endoscopic Video Ultrasound	
	Restricted Funds	275,000
hw.	Filmless System	
	Restricted Funds	150,000
hx.	Fluoroscopy Unit	
	Restricted Funds	550,000
hy.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	550,000
hz.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	500,000
ia.	Intracardiac Laser	
	Restricted Funds	500,000
ib.	Intracardiac Laser	
	Restricted Funds	550,000
ic.	Intraoperative Radiation Therapy	
	Restricted Funds	1,300,000
id.	Laboratory Analyzer	
	Restricted Funds	500,000
ie.	Linear Accelerator	
	Restricted Funds	2,050,000
if.	Managed Care Enterprise	
	Restricted Funds	1,160,000
ig.	Minimally Invasive Room	
	Restricted Funds	1,700,000
ih.	Mobile CT	
	Restricted Funds	1,100,000
ii.	Mobile CT	

	Restricted Funds	1,000,000
ij.	Mobile Fluoroscopic Unit	
	Restricted Funds	250,000
ik.	Mobile Radiology Unit	
	Restricted Funds	250,000
il.	MRI Upgrade	
	Restricted Funds	500,000
im.	Nuclear Medicine Camera	
	Restricted Funds	1,000,000
in.	OB Ultrasound	
	Restricted Funds	350,000
io.	OR Perioperative IS Document Systems Upgrade	
	Restricted Funds	150,000
ip.	Patient System Enterprise	
	Restricted Funds	4,640,000
iq.	Portal Imaging System	
	Restricted Funds	200,000
ir.	Portal Imaging System	
	Restricted Funds	250,000
is.	QuadRIS Upgrade	
	Restricted Funds	300,000
it.	Rad. Med. Software/System	
	Restricted Funds	350,000
iu.	Radiation Therapy Unit Upgrade	
	Restricted Funds	400,000
iv.	Radiographic Fluoroscopic Unit	
	Restricted Funds	200,000
iw.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ix.	Radiographic Unit	
	Restricted Funds	400,000
iy.	Radiographic Unit	
	Restricted Funds	350,000
iz.	Radiology Ultrasound	
	Restricted Funds	440,000
ja.	SPECT System	
	Restricted Funds	1,000,000
jb.	Steam Autoclave	
	Restricted Funds	450,000
jc.	Sterrad Sterilizer	
	Restricted Funds	450,000
jd.	Surgical C-Arm (ISS) System	
	Restricted Funds	650,000
je.	Surgical Laser	
	Restricted Funds	500,000
jf.	Surgical Microscope	
	Restricted Funds	500,000
jg.	Teleradiology	

		Restricted Funds	200,000
	jh.	Ultrasound Image Management	
		Restricted Funds	800,000
	ji.	Upgrade - HIS Computing Facility	
		Restricted Funds	2,900,000
	jj.	Upgrade for Servers	
		Restricted Funds	800,000
	jk.	Vascular Ultrasound	
		Restricted Funds	300,000
	jl.	Vascular Ultrasound	
		Restricted Funds	900,000
	jm.	Washer	
		Restricted Funds	350,000
	jn.	Various Buildings (Guaranteed Energy Savings Project)	
	jo.	Center for Rural Health	
		Reauthorization ($10,100,000 - Bond Funds)	
		Federal Funds - Additional	2,000,000
	jp.	College of Medicine - Lease	
	jq.	Medical Center Contract Sponsored Programs - Lease	
	jr.	Medical Center Patient Facility - Lease	
	js.	Medical Center Research Grants Projects - Lease	
	jt.	Pharmacy Contracted Programs - Lease	
	ju.	Center for Rural Health - Lease	
	jv.	Kentucky Utilities Building - Lease	
	jw.	Agricultural Plant Science Facility	
		Reauthorization	
		Restricted Funds - Additional	1,300,000
	jx.	Business and Economic Complex	
		Restricted Funds	1,000,000
9.	University of Louisville		
	a.	Expand - Research Resources Center	
		Restricted Funds	2,596,000
		Other Funds	7,787,000
		TOTAL	10,383,000
	b.	Property Acquisition	
		Restricted Funds	1,300,000
	c.	Construct - Boathouse for Women's Rowing	
		Other Funds	2,488,000
	d.	Field Turf - Practice Field Facility	
		Other Funds	750,000
	e.	Expand-Oppenheimer Hall for Social Work	
		Other Funds	5,450,000
	f.	Expand - Cardinal Arena in Student Activities Center	
		Other Funds	4,000,000
	g.	Renovate - Dental Clinic and Sterilization	
		Other Funds	3,637,000
	h.	Renovate - K-Wing 2nd and 4th Floors	

	Restricted Funds	1,040,000
i.	Expand - Ekstrom Library - New Wing	
	Federal Funds	14,000,000
j.	Construct - Residence Hall - 400 Beds, Phase I	
	Other Funds	19,718,000
k.	Parking Spaces - Health Sciences	
	Restricted Funds	825,000
l.	Renovate - MDR Building, Phase IV	
	Restricted Funds	2,530,000
m.	Renovate - Stoddard Johnston - Married Students	
	Other Funds	5,829,000
n.	Plasmon Resonance Instrument	
	Restricted Funds	250,000
o.	High Resolution Mass Spectrometer	
	Federal Funds	1,150,000
p.	Flow Fluorescence Activated Cell	
	Restricted Funds	130,000
q.	Microcalorimeter	
	Restricted Funds	140,000
r.	Confocal Microscope	
	Restricted Funds	280,000
s.	Neuro Scan ESI - 128:128 Channel	
	Restricted Funds	100,000
	Federal Funds	40,000
	TOTAL	140,000
t.	Laser Microfabrication Lab	
	Restricted Funds	275,000
	Federal Funds	250,000
	TOTAL	525,000
u.	X-Ray Diffraction Module	
	Restricted Funds	500,000
	Federal Funds	250,000
	TOTAL	750,000
v.	Particle Imaging Velocimetry (PIV)	
	Restricted Funds	167,000
w.	Confocal Laser Scanning Microscope	
	Restricted Funds	400,000
x.	CNC Grinding Machine	
	Restricted Funds	164,000
y.	Load Application System	
	Restricted Funds	240,000
z.	Axis (5) CNC Machining	
	Restricted Funds	150,000
aa.	Color Digital Output Engine	
	Restricted Funds	700,000
ab.	High Volume Output Devices Duplicator	
	Restricted Funds	876,000
ac.	High Speed Graphics Imaging System	

	Restricted Funds	200,000
ad.	Digital Communication Network	
	Restricted Funds	2,000,000
ae.	Network Switching System	
	Restricted Funds	2,000,000
af.	Electronic Research Information System	
	Restricted Funds	2,000,000
ag.	Computer Workstations for Libraries	
	Restricted Funds	466,000
ah.	High Availability Enterprise System	
	Restricted Funds	1,430,000
ai.	Client Server System - File Server	
	Restricted Funds	1,100,000
aj.	Computer Processing System	
	Restricted Funds	2,000,000
ak.	Engineering Scientific Processor	
	Restricted Funds	1,100,000
al.	Supercomputing System	
	Restricted Funds	1,500,000
am.	Upgrade Supercomputer	
	Restricted Funds	400,000
an.	Autonomous Mobility Platform	
	Restricted Funds	400,000
	Federal Funds	60,000
	TOTAL	460,000
ao.	Concave Reality Unit	
	Restricted Funds	250,000
ap.	High Energy Physics Data Analysis	
	Restricted Funds	175,000
	Federal Funds	175,000
	TOTAL	350,000
aq.	Gel Blot Image Analysis System	
	Restricted Funds	145,000
ar.	High Resolution Hybrid Mass Spectrometer	
	Restricted Funds	500,000
	Federal Funds	100,000
	TOTAL	600,000
as.	Digital Micro-Luminography System	
	Restricted Funds	120,000
at.	Electronic Darkroom	
	Restricted Funds	193,000
au.	Laser Desorption/Ionization Mass Spectrometer	
	Restricted Funds	200,000
av.	Molecular Tagging Velocimetry	
	Restricted Funds	245,000
aw.	Peak 3D Equipment	
	Restricted Funds	120,000
ax.	Deposition Attachment - UHV Facility	

	Restricted Funds	500,000
ay.	Electric Injection Molding Machine	
	Restricted Funds	110,000
az.	Materials Testing System	
	Restricted Funds	218,000
ba.	Specialized Central Processing Unit	
	Restricted Funds	500,000
bb.	Protein Chip Analyzer	
	Restricted Funds	200,000
bc.	Nucleic Acid Microchip Analyzer	
	Restricted Funds	200,000
bd.	Analytical Ultracentrifuge	
	Restricted Funds	145,000
be.	High Resolution SEM	
	Restricted Funds	360,000
bf.	Intermediate Voltage Transmission	
	Restricted Funds	550,000
bg.	Micro-Computed Tomography Imager	
	Restricted Funds	480,000
bh.	Automated Synthesizer	
	Restricted Funds	95,000
	Federal Funds	95,000
	TOTAL	190,000
bi.	EPR Spectrometer Update	
	Restricted Funds	60,000
	Federal Funds	65,000
	TOTAL	125,000
bj.	Virtual Reality Display System	
	Restricted Funds	90,000
	Federal Funds	90,000
	TOTAL	180,000
bk.	Various Buildings (Guaranteed Energy Savings Project)	
bl.	Cardinal Park - Natatorium	
	Restricted Funds	7,335,000
	Other Funds	12,489,000
	TOTAL	19,824,000
bm.	Expand HSC Parking Garage - Two Additional Floors	
	Restricted Funds	4,794,000
bn.	Baseball Stadium	
	Other Funds	5,900,000
bo.	Cardinals' Nest - Housing	
	Other Funds	6,500,000
bp.	Land Purchase and Construction of Floyd Street Parking Lot	
	Other Funds	2,290,000
bq.	UL and UK Fiber Optics Purchase	
	Restricted Funds	4,650,000
br.	Biomedical Research Building - Phase III Planning	

		Restricted Funds	4,835,100
10.	Western Kentucky University		
	a.	Various Buildings	
		(Guaranteed Energy Savings Project)	
	b.	Capital Renewal and Deferred Maintenance Pool	
		Restricted Funds	10,000,000
	c.	Electrical Distribution Phase IV and V Renovation	
		Restricted Funds	2,449,000
	d.	Digital Television Transmission System	
		Restricted Funds	1,993,000
		Federal Funds	1,328,000
		TOTAL	3,321,000
	e.	Renovate/Construct Telephone Infrastructure	
		Restricted Funds	3,000,000
	f.	Van Meter Hall Renovation - Design	
		Restricted Funds	688,000
	g.	Central Heat Plant Renovation - Phase I	
		Restricted Funds	1,273,000
	h.	Garrett Conference Center Renovation - Design	
		Restricted Funds	858,000
	i.	Server	
		Restricted Funds	880,000
	j.	Video Server	
		Restricted Funds	800,000
	k.	Downing University Center Renovation	
		Restricted Funds	11,320,000
	l.	Land Acquisition	
		Restricted Funds	400,000
11.	Kentucky Community and Technical College System		
	a.	KCTCS System Office - Lease	
	b.	Capital Renewal and Deferred Maintenance Pool	
		Restricted Funds	13,444,000
	c.	Upgrade for ADA/Fire Safety - Somerset Community College	
		Restricted Funds	4,585,000
	d.	Master Plan Development and Upgrade Pool	
		Restricted Funds	650,000
	e.	HVAC System Renovation - Daviess Co. Campus	
		Restricted Funds	2,440,000
	f.	Install FiberOptics, Allied Health Building	
		Restricted Funds	558,000
	g.	Campus HVAC System Renovation - Somerset Community College	
		Restricted Funds	2,173,000
	h.	Replace HVAC System, 77 Addit, Laurel TC	
		Restricted Funds	1,280,000
	i.	Enclose Courtyard/Roof - Falkenstine Hall	
		Restricted Funds	1,359,000
	j.	Computer Interfaced Distillation Column	

	Restricted Funds	114,000	
k.	Helicopter for Aircraft Tech Program - JTC		
	Restricted Funds	271,000	
l.	New Telephone System Owensboro - CC & TC		
	Restricted Funds	340,000	
m.	Multi-engine Turbine Power Aircraft		
	Restricted Funds	300,000	
n.	Diagnostic Medical Sonography Unit		
	Restricted Funds	110,000	
o.	Various Buildings (Guaranteed Energy Savings Project)		
p.	Henderson Community College - Lease		
q.	Jefferson Community College - Lease		

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit		2002-03	2003-04
1.	Housing, Buildings and Construction		
a.	Franklin County - Lease		
2.	Department of Insurance		
a.	Franklin County - Lease		
3.	Public Advocacy		
a.	Franklin County - Lease		

N. REVENUE

Budget Unit		2002-03	2003-04
1.	Office of the Secretary		
a.	Franklin County - Lease		
b.	Franklin County - Lease		
c.	Franklin County - Lease		

O. TOURISM DEVELOPMENT CABINET

Budget Unit		2002-03	2003-04
	The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.		
1.	Department of Parks		
a.	Construct Water Plant - Natural Bridge		
	Emergency Repair, Maintenance, and Replacement Fund	1,000,000	
b.	Maintenance Pool		
	Investment Income	3,700,000	3,700,000
c.	Campground Electrical/Life Safety Upgrade and Reconstruction		
	Investment Income	2,600,000	
d.	Construct Wave Barrier - Jenny Wiley		
	Reauthorization		
e.	Kincaid Lake Golf Course		
	Reauthorization		
f.	Ben Hawes State Park Project/Various Improvements		
	Reauthorization and Reallocation		
2.	Kentucky Horse Park		
a.	Maintenance Pool		
	Investment Income	475,000	475,000
b.	Painting, Fencing, and Infrastructure Repair		

		Investment Income	225,000	
	c.	Design and Infrastructure of a New Indoor Arena and Campground Expansion		
		General Fund		400,000
3.		Kentucky State Fair Board		
	a.	Purchase DOT Building		
		Bond Funds	500,000	
	b.	Replace Roofs		
		Bond Funds	2,800,000	
	c.	Maintenance Pool		
		Restricted Funds	1,500,000	1,500,000
	d.	Teleconference Center - KICC		
		Reauthorization and Reallocation (250,000 - Restricted Funds)		

The above Restricted Funds, as appropriated in accordance with 2000 Ky. Acts ch. 549, Part II, O. Tourism Development Cabinet, 2. Kentucky State Fair Board, c. Freedom Hall-Portable Trailers, are reauthorized and reallocated to provide for the completion of the Kentucky International Convention Center Teleconferencing Center.

4.		Department of Fish and Wildlife Resources		
	a.	Land Acquisition Pool		
		Restricted Funds	500,000	500,000
	b.	Maintenance Pool		
		Restricted Funds	300,000	300,000

P. TRANSPORTATION CABINET

Budget Unit			2002-03	2003-04
1.		Highways		
	a.	TRNSPRT System		
		Road Fund	3,500,000	
	b.	Statewide Transportation Operations Center		
		Federal Funds		5,680,000
		Road Fund		1,420,000
		TOTAL		7,100,000
2.		General Administration and Support		
	a.	Construct Martin County Maintenance Facility and Salt Dome		
		Road Fund		845,000
	b.	Replace HVAC System - Franklin County Materials Lab		
		Road Fund		600,000
	c.	Construct and Repair Various Salt Storage Structures		
		Road Fund		813,000
	d.	Asbestos Survey/Abatement/Air Monitoring		
		Road Fund		100,000
	e.	Building Renovation and Emergency Repairs		
		Road Fund	840,000	
	f.	Conduct Paving and Landscaping		
		Road Fund		600,000
	g.	Wastewater Treatment/Water Projects		
		Road Fund		200,000
	h.	HVAC Maintenance and Repair		
		Road Fund		800,000
	i.	Hydraulic Hoists-Heavy Equipment		
		Road Fund		300,000

j.	Purchase of High Speed Duplicators (Two)		
	Road Fund		600,000
k.	Purchase Electrical Digital Surveying System		
	Road Fund		150,000
l.	Purchase Concrete and Geotech Testing System		
	Road Fund		146,000
m.	Purchase of Core Drill		
	Road Fund		210,000
n.	Various Parks Roads		
	Road Fund	1,500,000	1,500,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit		2002-03	2003-04
1.	General Administration and Program Support		
a.	Implement Guaranteed Energy Savings (Guaranteed Energy Performance Contract)		
b.	Implement ADA Barrier Removal Pool		
	Investment Income	125,000	
c.	Maintenance Pool		
	Investment Income	425,000	425,000
2.	Vocational Rehabilitation		
a.	Construct New Sewage Treatment Plant-Perkins Rehabilitation Center		
	Bond Funds	265,000	
b.	Franklin County - Lease		
c.	Fayette County - Lease		
3.	Employment Services		
a.	DES Facility Renovation Pool		
	Reauthorization		

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

R. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 and fiscal year 2003-2004 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

(1) GOVERNMENT OPERATIONS

a.	Budget Unit Local Government	2002-03	2003-04
Bell County			
1.	Bell County Public Library - Operations		
	Restricted Funds	5,000	5,000

2.	Frakes Volunteer Fire Department - Operations		
	Restricted Funds	12,500	12,500
3.	Bell County Little League - Improvements		
	Restricted Funds	25,000	
4.	Bell County Animal Shelter - Improvements		
	Restricted Funds	5,000	5,000
5.	Bell County Veterans Park - Improvements		
	Restricted Funds	5,000	5,000
6.	Bell County - Middlesboro History Museum - Operations		
	Restricted Funds	7,500	7,500
7.	Bell County - Middlesboro Rescue Squad - Operations		
	Restricted Funds	12,500	12,500
8.	Bell County - Middlesboro Airport - Operations		
	Restricted Funds	50,000	
9.	P-38 Museum at Middlesboro - Operations		
	Restricted Funds	150,000	
10.	Bell County Volunteer Fire Department - Lone Jack Co. for Repairs		
	Restricted Funds	25,000	
11.	Bell County Volunteer Fire Department - Generator at Central		
	Restricted Funds	25,000	
12.	Bell County Volunteer Fire Department		
	Restricted Funds	25,000	25,000
13.	Bell County Jail - Repairs		
	Restricted Funds	50,000	
14.	Bell County Health Department - Operations		
	Restricted Funds	5,000	5,000
15.	Bell County Interfaith - Operations		
	Restricted Funds	5,000	5,000
16.	Bell County Senior Citizens - For Their Share of Pineville City School Wellness Center		
	Restricted Funds	50,000	
17.	Bell County Senior Citizens - Operations		
	Restricted Funds	25,000	25,000
18.	Middlesboro Little League/Senior League - T-ball Improvements		
	Restricted Funds	12,500	12,500
19.	Pineville School - Divided Evenly Among Each Site Based Council		

	Restricted Funds	25,000	
20.	Bell County Schools - Divided Evenly Among Each Site Based Council		
	Restricted Funds	25,000	
21.	Middlesboro City Schools - Divided Evenly Among Each Site Based Council		
	Restricted Funds	25,000	
22.	Bell County Fiscal Court - Ambulance and Equipment		
	Restricted Funds	75,000	
23.	City of Middlesboro - Various Projects		
	Restricted Funds	200,000	200,000
24.	City of Pineville - Various Projects		
	Restricted Funds	75,000	75,000
25.	Bell County Fiscal Court - Water Project - Wx2101 3907 Earmarked		
	Restricted Funds	280,000	820,000
Boyd County			
26.	Boyd County Board of Education - Cannonsburg Elementary School - Playground Equipment and Improvements		
	Restricted Funds	10,000	
27.	Ashland American Little League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
28.	Boyd County National Little League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
29.	Boyd County AABC League - Equipment and Facility Improvements		
	Restricted Funds	10,000	
30.	City of Catlettsburg - Downtown Development		
	Restricted Funds	15,000	
31.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted Funds	10,000	
32.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation, and Economic Development Efforts		
	Restricted Funds	35,000	
33.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation, and Economic Development Efforts		
	Restricted Funds		37,870
34.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted Funds		10,000

35.	Boyd County Fiscal Court - Water and Sewer Projects		
	Restricted Funds	100,000	100,000
36.	City of Ashland - Water Treatment Plant Improvements		
	Restricted Funds	48,139	
Breathitt County			
37.	Breathitt County Water District - Water Line Extensions		
	Restricted Funds	500,000	781,804
38.	City of Jackson - Water Treatment Plant Expansions		
	Restricted Funds	600,000	
Butler County			
39.	Repeate System for Fire, Ambulance, Sheriff, and EMS Response		
	Restricted Funds	15,000	
40.	GPS/GIS Mapping for 911 System		
	Restricted Funds	114,000	
41.	Various Projects		
	Restricted Funds		65,144
Carter County			
42.	Carter County - Fire Departments		
	Restricted Funds		60,000
43.	Grayson Utility Commission - Water Treatment Plant		
	Restricted Funds	50,000	107,018
44.	Carter County School System - Soccer Fields Property Acquisition		
	Restricted Funds	25,000	
45.	Carter County Fair Board - Property Acquisition for Permanent Fair Location		
	Restricted Funds	25,000	
46.	City of Grayson - City Pool Repair and Maintenance/Operations		
	Restricted Funds	25,000	
47.	Grayson Little League Grounds		
	Restricted Funds	5,000	
48.	Olive Hill Little League		
	Restricted Funds	5,000	
49.	"Someday Outdoor Drama" Production Allowance		
	Restricted Funds	5,000	
50.	Grahn Community Center Production Allowance		
	Restricted Funds	10,000	
51.	Carter County Fiscal Court Recreational/Park Purposes and Property Acquisition		

	Restricted Funds	33,916	
52.	Mt. Savage Furnace Historic Marker Replacement		
	Restricted Funds	1,600	
53.	Rattlesnake Ridge Water District - Water Line Extension		
	Restricted Funds	150,000	
Christian County			
54.	Christian County Water District		
	Restricted Funds	150,000	
55.	Christian County - Trail of Tears		
	Restricted Funds	22,000	
56.	Christian County - Visitors Center		
	Restricted Funds	18,000	
Clay County			
57.	City of Manchester - County-wide Water Line Extension		
	Restricted Funds	392,894	246,400
58.	City of Manchester - Clay County Fiscal Court - Sewer Line and Treatment Plant Upgrade		
	Restricted Funds	300,000	
59.	City of Pineville - Red Bird Mission Water Line Project		
	Restricted Funds	30,000	
60.	North Manchester Water Association Water Storage Tank		
	Restricted Funds	230,000	
61.	Fiscal Court - Purchase Vehicles for Sheriff and Jailer		
	Restricted Funds	75,000	
Daviess County			
62.	Daviess County - Fire Station		
	Restricted Funds	240,000	
63.	Owensboro Southwest Park Project		
	Restricted Funds		200,000
64.	Daviess County Parks - Equipment		
	Restricted Funds	200,000	
65.	H.L. Neblett Center Capital Project		
	Restricted Funds	150,000	150,000
Floyd County			
66.	City of Prestonsburg - Mountain Top Economic Development		
	Restricted Funds	500,000	
67.	Floyd County Fiscal Court - Fire Protection		
	Restricted Funds	100,000	
68.	Southern Water and Sewer District - Water Line Extensions at Beaver Creek		
	Restricted Funds	441,419	

69.	Southern Water and Sewer District - Water Line Extensions in Southern Floyd County		
	Restricted Funds	1,000,000	
70.	Floyd County Senior Citizens Center - To be divided equally among the following seven centers - Wheelwright, Martin, McDowell, Betsy Lane, Mud Creek, Prestonsburg, and Wayland		
	Restricted Funds		35,000
71.	Floyd County Parks Improvements		
	Restricted Funds		150,000
Greenup County			
72.	City of Flatwoods - Senior Citizens Center		
	Restricted Funds	8,000	
73.	City of Greenup-Water System Phase VII Expansion Project		
	Restricted Funds	14,155	99,399
74.	City of Russell - Sewer System		
	Restricted Funds	4,000	
75.	City of Worthington - Water System Interconnection		
	Restricted Funds		20,000
76.	City of Wurtland - Water Storage Tank		
	Restricted Funds	11,000	
77.	Greenup County - Fire Departments		
	Restricted Funds	24,777	
78.	City of Worthington - City of Raceland - Water System Interconnection		
	Restricted Funds	20,000	
Hancock County			
79.	Hancock County Fiscal Court - Lewisport Industrial Park Water Projects		
	Restricted Funds	91,219	
Harlan County			
80.	Black Mountain Utility District - Putney - Totz/Water Line Extension		
	Restricted Funds	1,250,000	
81.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant		
	Restricted Funds	250,000	275,000
82.	City of Evarts - Line Extension with Black Mountain Utility District		
	Restricted Funds	800,000	
83.	City of Harlan - Water Treatment Plant		
	Restricted Funds	500,000	
84.	City of Harlan - Fire Station South		

	Restricted Funds	100,000	
85.	City of Loyall - Equipment and Repair for Fire, Police, and Sewer Departments		
	Restricted Funds		91,000
86.	City of Lynch - Water Line Upgrade		
	Restricted Funds	300,000	316,027
87.	City of Wallins Creek - City Equipment Purchase		
	Restricted Funds		20,000
88.	Green Hills Water District - Water Tank Construction		
	Restricted Funds	125,000	
89.	Green Hills Water District - Water Line to Little Shepard Trail		
	Restricted Funds	35,500	125,000
90.	Harlan County Fiscal Court - Southeast Community College-Paramedic Training		
	Restricted Funds	50,000	50,000
91.	Harlan County PVA - Digital/Mapping		
	Restricted Funds	35,000	
92.	Harlan County/Tri-Cities - Coordination for Community Development		
	Restricted Funds	35,000	35,000
93.	Southeast Community College Foundation - Mine Museum, Golf Course, and Mine Tour		
	Restricted Funds	250,000	250,000
94.	Southeast Community College Foundation - Underground Mine Tour		
	Restricted Funds	500,000	
95.	City of Harlan - Downtown Revitalization Program		
	Restricted Funds		100,000
96.	Fire Department Equipment - Provide $7,500 for each of the following Volunteer Fire Departments - Holmes Mill, Yocum Creek, Lower Clover Fork, Bledsoe, Putney, Wallins, Coldiron, Sunshine, Martins Fork, Evarts, Loyall, Upper Cloverfork, and Benham		
	Restricted Funds		91,000
97.	Evarts Train Depot - Renovation of Building		
	Restricted Funds	50,000	
98.	Bledsoe Community Center - Construction of Building		
	Restricted Funds		20,000
99.	Cranks Volunteer Fire Department - Start-up Expenses		
	Restricted Funds		15,000
100.	The Laurels, Inc. - Renovation		

	Restricted Funds		40,000
101.	Harlan County Fiscal Court - Provide $5,000 for each of the following rescue squads - Harlan and Tri-County		
	Restricted Funds		10,000
102.	City of Harlan - Little League		
	Restricted Funds	5,000	
103.	City of Cumberland - Purchase or construction of a tourism Welcome and Information Center for the Appalachian Frontier Homestead		
	Restricted Funds		25,000
104.	Cawood Ledford Harlan County Boys and Girls Club		
	Restricted Funds		250,000
105.	Harlan County Fiscal Court - Cloverfork Rescue Squad, Building Construction		
	Restricted Funds		50,000
106.	City of Benham - Purchase of Equipment for Water/Sewer Service and Fire Protection		
	Restricted Funds		20,000
Henderson County			
107.	Henderson County Water District - Fulton-Yates/Mt. Zion Church Road Loop Water Line		
	Restricted Funds	125,000	
108.	Henderson County Water District - Various Extensions		
	Restricted Funds	230,000	
109.	Henderson County Water District - Posey-Ball Road Water Line		
	Restricted Funds	121,381	
110.	Henderson County Water District - Tank Repair		
	Restricted Funds	350,000	
111.	Henderson County Water District - Water Line Extension to Kings Mill Road, Birk City Road, and Green River Road		
	Restricted Funds	86,355	
112.	Henderson Water Utility - Interconnection with Evansville Water		
	Restricted Funds	100,000	
Hopkins County			
113.	Hopkins County Fiscal Court - Adult Education Initiative		
	Restricted Funds	100,000	100,000
114.	Hopkins Volunteer Fire Departments -		

	($10,000 each to Anton, Charleston, Dawson Springs, Earlington, Grapevine, Hanson, Manitou, Mortons Gap, Nebo, Nortonville, Richland, St. Charles, South Hopkins, and White Plains for Purchase of Firefighting Equipment)		
	Restricted Funds	140,000	
115.	Hopkins County Land Acquisition - Economic Development		
	Restricted Funds	1,000,000	500,000
Jackson County			
116.	Jackson County Fiscal Court - Buncomb Road Water Line		
	Restricted Funds	146,242	
117.	Jackson County Water Association - Water Supply Lake		
	Restricted Funds	100,000	88,256
Johnson County			
118.	City of Paintsville - Business/Technical/Incubator		
	Restricted Funds	300,000	
119.	Johnson County Fiscal Court - Fire Departments		
	Restricted Funds	35,000	35,000
120.	Paintsville Utility Commission - New Water Treatment Plant		
	Restricted Funds	20,757	
121.	Paintsville Utility Commission - Extensions in Scattered Locations		
	Restricted Funds	344,701	268,734
Knott County			
122.	Knott County Artisans Center - Construction		
	Restricted Funds	835,987	800,000
123.	Knott County Fiscal Court - Jail		
	Restricted Funds	600,000	600,000
124.	Knott County Fiscal Court - Fire Departments		
	Restricted Funds	100,000	50,000
125.	Knott County Fiscal Court - Beaver Park Expansions		
	Restricted Funds	100,000	
126.	Knott County Fiscal Court - Youth Development Center		
	Restricted Funds	100,000	
127.	Knott County/City of Hazard - Water Line Extension		
	Restricted Funds	661,746	

128.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Restricted Funds	3,348,903	674,090
129.	Kentucky School of Craft - KCTCS - Operating		
	Restricted Funds		500,000
Knox County			
130.	Barbourville Utility Commission - Water Tank and Pump Station HWY 229		
	Restricted Funds	175,000	
131.	Cranes Nest Waterlines		
	Restricted Funds	10,000	
132.	Scott Hollow Waterlines		
	Restricted Funds	5,000	
133.	Keck and Middle Fork of Richland Waterlines		
	Restricted Funds	60,000	
134.	Greenbriar Waterlines		
	Restricted Funds	15,000	
135.	Knox County Fiscal Court - Big Creek Water Tank - HWY 718		
	Restricted Funds		110,000
136.	Knox County Fiscal Court - Alex Creek Waterlines		
	Restricted Funds		15,000
137.	Knox County Fiscal Court - Salt Gum Waterlines		
	Restricted Funds		10,000
138.	Knox County Fiscal Court - Turkey Fork Waterlines		
	Restricted Funds		15,000
139.	Knox County Fiscal Court - Jeffs Creek Waterlines		
	Restricted Funds		10,000
140.	Knox County Fiscal Court - Houston Broughton Road Waterlines		
	Restricted Funds		10,000
141.	Knox County Fiscal Court - Mills Creek Waterlines		
	Restricted Funds		10,000
142.	Knox County Fiscal Court - Coles Branch Waterlines		
	Restricted Funds		10,000
143.	Knox County Fiscal Court - Don Mills Road Waterlines		
	Restricted Funds		5,000
144.	Knox County Fiscal Court -		

	Dora Clark Branch Waterlines		
	Restricted Funds		12,000
145.	Knox County Fiscal Court - Hinkel Branch Waterlines		
	Restricted Funds		5,000
146.	Knox County Fiscal Court - Rob Smith Road Waterlines		
	Restricted Funds		3,000
147.	Knox County Fiscal Court - Brices Creek Waterlines		
	Restricted Funds		17,000
148.	Knox County Fiscal Court - Hales Creek Waterlines		
	Restricted Funds		10,000
149.	Knox County Fiscal Court - Lick Branch Waterlines		
	Restricted Funds		3,000
150.	Knox County Fiscal Court - Ely Hollow Waterlines		
	Restricted Funds		47,000
151.	Knox County Fiscal Court - Waterlines		
	Restricted Funds		15,445
152.	Southeast Ky. Rehabilitation Industries (SEKRI) - Renovation of Warner Building		
	Restricted Funds	330,189	
Laurel County			
153.	Wood Creek Water District - Water Tank and Pump Station		
	Restricted Funds	105,943	111,800
Lawrence County			
154.	Big Sandy Water District - Interconnection		
	Restricted Funds		196,540
155.	City of Louisa Water Project - Water System Improvements		
	Restricted Funds	391,520	
156.	Lawrence County Board of Education - Community Wellness Center		
	Restricted Funds	50,000	50,000
157.	Lawrence County Fiscal Court - Community Center		
	Restricted Funds	200,000	
158.	Lawrence County Volunteer Fire Departments		
	Restricted Funds	10,078	45,922
Lee County			
159.	City of Beattyville - Water		

	Line Extension		
	Restricted Funds	669,775	
160.	Lee County Fiscal Court - Library Renovation at Old Jail		
	Restricted Funds	150,000	
161.	Lee County Fiscal Court - Sewer Expansion to Happy Top		
	Restricted Funds		50,000
162.	Lee County Fiscal Court - Renovate Ambulance Building		
	Restricted Funds		50,000
163.	Lee County Fiscal Court - Various Community Development Programs		
	Restricted Funds		200,000
Leslie County			
164.	Leslie County Water District - Water Line Extension		
	Restricted Funds	350,000	
165.	Leslie County Water District - Water Line Extension		
	Restricted Funds	659,933	
166.	Leslie County Water District - Water Line Extension		
	Restricted Funds	250,000	
167.	Leslie County Water District - Water Line Extension		
	Restricted Funds	650,000	
168.	Leslie County Water District - Water Line Extension and System Telemetry		
	Restricted Funds	1,030,000	
169.	Leslie County Water District - Water Line Extension		
	Restricted Funds	500,000	
170.	Leslie County - Campus of Hazard Community College		
	Restricted Funds		500,000
171.	Leslie County Fiscal Court - Transportation Improvements		
	Restricted Funds		500,000
172.	Leslie County Fiscal Court - E911 Equipment and Operations		
	Restricted Funds		500,000
173.	Leslie County Fiscal Court - Stinnett Area Community Center		
	Restricted Funds		400,000
174.	Leslie County Fiscal Court - Funds to be divided equally among six local		

	Volunteer Fire Departments		
	Restricted Funds	150,000	
175.	Leslie County Fiscal Court - Jail Improvements		
	Restricted Funds		186,000
Letcher County			
176.	City of Fleming-Neon - Water Line Extension		
	Restricted Funds	590,000	
177.	City of Jenkins - City Hall Expansion		
	Restricted Funds	85,346	74,654
178.	City of Jenkins - Water Line Extension		
	Restricted Funds	223,466	
179.	City of Jenkins - Downtown Revitalization		
	Restricted Funds	120,000	
180.	City of Jenkins - Mountain Water District - Water Line Extension		
	Restricted Funds	450,000	
181.	Letcher County Water and Sewer District - Water Line Extension (Routes 7 and 317)		
	Restricted Funds	1,970,073	331,214
182.	Letcher County Board of Education - Fleming - Neon High School		
	Restricted Funds	100,000	
183.	Letcher County Fiscal Court - Landfill Closure		
	Restricted Funds	500,000	500,000
184.	Letcher County Domestic Violence Council		
	Restricted Funds	100,000	
185.	Letcher County - Provide funds to be shared equally among ten Volunteer Fire Departments		
	Restricted Funds	200,000	
186.	Letcher County Parks and Recreation - Jenkins Baseball Park		
	Restricted Funds	100,000	
187.	Letcher County Parks and Recreation - Various Parks in Letcher County		
	Restricted Funds	20,000	
188.	Cumberland Mountain Arts and Craft Council matching grant moneys for the establishment of outdoor drama, "Little Shepherd of Kingdom Come"		
	Restricted Funds	30,000	
189.	Letcher County Expansion of Senior Citizens Centers		
	Restricted Funds	100,000	
190.	Letcher County Water Authority (water tank for White Hill and expansion of water lines to Dry Fork, Uz, and Premium)		
	Restricted Funds		160,000
191.	Letcher County Fiscal Court - Esta Craft Conway Spouse Abuse Center in Whitesburg		

	Restricted Funds	50,000	
192.	Letcher County Fiscal Court - Whitesburg Recreation Center		
	Restricted Funds	35,000	
193.	Letcher County Fiscal Court - Eola Recreation Center		
	Restricted Funds	15,000	
194.	New Fire Department Headquarters - Jenkins		
	Restricted Funds	30,000	
McCreary County			
195.	McCreary County Water District - Water Line Extensions		
	Restricted Funds	403,981	46,019
McLean County			
196.	McLean County Fiscal Court - City of Island Water Department - Debt Service on 10" Line		
	Restricted Funds	70,000	
197.	McLean County Fiscal Court - City of Sacramento - Water System Improvements		
	Restricted Funds		50,000
198.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Restricted Funds	60,000	60,000
199.	McLean County Fiscal Court - High Speed Data/E-Government		
	Restricted Funds	30,000	
200.	McLean County Fiscal Court - Rumsey Sewer		
	Restricted Funds	200,000	50,000
201.	McLean County Fiscal Court - Extension of Water Lines at Pone River		
	Restricted Funds	20,000	30,000
202.	McLean County Fiscal Court - Fire Departments		
	Restricted Funds	80,000	
203.	McLean County Fiscal Court - Fire/ Rescue Equipment or Vehicle		
	Restricted Funds		50,000
Magoffin County			
204.	Magoffin County Fiscal Court - Administrative Office Building		
	Restricted Funds	600,000	
205.	Magoffin County Fiscal Court - Fire Departments		
	Restricted Funds	100,000	

206.	Magoffin County Water District - Water Line Extensions		
	Restricted Funds	405,000	
207.	Magoffin County Water District - Paintsville New Treatment Plant		
	Restricted Funds	812,046	187,954
208.	Magoffin County Rescue For Purchase of Truck		
	Restricted Funds	50,000	
209.	Royallton Fire Department		
	Restricted Funds	10,000	
210.	Salyersville Fire Department		
	Restricted Funds	10,000	
Martin County			
211.	City of Warfield - Community Center		
	Restricted Funds	25,000	
212.	Martin County Senior Citizens Center - Equipment		
	Restricted Funds	20,000	
213.	Martin County Sheriff's Office - Equipment		
	Restricted Funds	22,000	
214.	Martin County Volunteer Fire Departments		
	Restricted Funds	28,000	
215.	Martin County Water District - Upgrade/Expansion Water Treatment Plant		
	Restricted Funds	3,122,831	
216.	Martin County Water District - Eastern Area Water Line Extensions		
	Restricted Funds	470,034	
217.	Martin County Water District - Side Hollow Water Line Extensions		
	Restricted Funds	1,033,289	
218.	Roy F. Collier Community Center - Furnishings and Equipment		
	Restricted Funds	500,000	
219.	Martin Fiscal Court - Emergency Management - Enhanced 911/GIS		
	Restricted Funds	100,000	
220.	Martin County Fiscal Court - Fire Department/Rescue Squad - Equipment and Fire House Improvements		
	Restricted Funds	75,000	
Menifee County			

221.	Cave Run Water Commission - Water Plant		
	Restricted Funds	237,702	
222.	Menifee County Youth Center		
	Restricted Funds	50,000	
223.	Menifee Fire Departments		
	Restricted Funds	40,000	
224.	Walking Trail Park		
	Restricted Funds	40,000	
Morgan County			
225.	Morgan County Fiscal Court - ($10,000 Grant to Each of the Six Local Volunteer Fire Departments)		
	Restricted Funds	60,000	
226.	Morgan County Fiscal Court - Industrial Road Development - Spec Building Construction and Industrial Site Development		
	Restricted Funds	750,000	
227.	Morgan County Fiscal Court - Development of Park at the Mouth of Caney Creek		
	Restricted Funds	50,000	
228.	Morgan County Fiscal Court - Morgan County Memory Hill		
	Restricted Funds	10,000	
Muhlenberg County			
229.	Muhlenberg County Fiscal Court - Adult Education Initiative		
	Restricted Funds	100,000	
230.	Muhlenberg County Fiscal Court Purchase Eight Thermal Imaging Devices, One for Each Fire Department (Central City, Bremen, Graham, Greenville, Dunmore, Beechmont, Drakesboro, and Nelson)		
	Restricted Funds	80,000	
Ohio County			
231.	Ohio County Fiscal Court - Bluegrass Memorial/Music		
	Restricted Funds	234,517	64,640
232.	Ohio County Water District - Transmission Main		
	Restricted Funds	232,260	
233.	Ohio County Water District - Transmission Main		
	Restricted Funds		232,260
Owsley County			

234.	Owsley County Fiscal Court - Economic Development Initiatives		
	Restricted Funds		150,000
235.	Owsley County Fiscal Court - Booneville Volunteer Fire Department - Fire Truck		
	Restricted Funds	50,000	
236.	Owsley County Fiscal Court - Vincent/Island City Volunteer Fire Department		
	Restricted Funds	50,000	
Perry County			
237.	City of Hazard - Robinson - Rowdy Water Line		
	Restricted Funds	1,099,134	
238.	City of Hazard - South Perry County Water Line		
	Restricted Funds	769,702	1,280,800
239.	Hazard Community College		
	Restricted Funds	88,605	
Pike County			
240.	Breaks Interstate Park - Improvement Project		
	Restricted Funds		1,000,000
241.	City of Elkhorn City - Water Line Extension		
	Restricted Funds		363,204
242.	City of Pikeville - Underground Utilities		
	Restricted Funds	1,000,000	
243.	East Kentucky Exposition Center - Facility Construction		
	Restricted Funds	2,000,000	
244.	East Kentucky Exposition Center - Operations		
	Restricted Funds	150,000	250,000
245.	Fishtrap State Park - Expansion Project		
	Restricted Funds	431,226	1,568,774
246.	Mountain Water District - Lower Shelby Valley Sewer Project		
	Restricted Funds	800,000	
247.	Mountain Water District - Fords Mountain Connector		
	Restricted Funds		366,000
248.	Mountain Water District - Phelps Water Line Extensions		
	Restricted Funds	151,000	
249.	Mountain Water District - Feds Creek Extension		
	Restricted Funds	911,747	
250.	Pike County Fiscal Court - Blackberry Senior Citizens Center		

	Restricted Funds	100,000
251.	Pikeville Water Department - Water Treatment Improvements	
	Restricted Funds	174,000
252.	Mountain Water District - Chloe- Shelbianna Connector	
	Restricted Funds	197,000
253.	Pike County Fiscal Court - Long Fork Community Park at Virgie, KY	
	Restricted Funds	50,000
254.	Pike County Fiscal Court - Dorton Community Park	
	Restricted Funds	50,000
255.	Pike County Fiscal Court - Construction of New Fire Station at Virgie	
	Restricted Funds	50,000
256.	Pike County Fiscal Court - Construction of New Fire Station at Island Creek	
	Restricted Funds	50,000
257.	Elkhorn City - Construction of Fair Grounds	
	Restricted Funds	50,000
258.	Pike County Fiscal Court - To be divided equally among all Pike County Fire Departments	
	Restricted Funds	100,000
259.	Pike County Fiscal Court - To be divided equally among all Senior Citizens Centers	
	Restricted Funds	100,000
260.	Pike County Fiscal Court - For Hope, Inc. - to be divided equally among three Centers	
	Restricted Funds	60,000
261.	Pike County Fiscal Court - KY Appalachian Center Project	
	Restricted Funds	50,000
262.	Pike County Fiscal Court - Chisholm Park Project Feasibility Study	
	Restricted Funds	100,000
263.	Pike County Fiscal Court - Freeburn Park Project	
	Restricted Funds	50,000
264.	Pike County Fiscal Court - Majestic Community Park	
	Restricted Funds	25,000
265.	Pike County Fiscal Court - Mountain Water District - 50 New Fire Hydrants	
	Restricted Funds	81,500
266.	Pike County Fiscal Court -	

	Drug Rehabilitation Center Feasibility Study		
	Restricted Funds	50,000	
267.	Elkhorn City Heritage County - Operations and Project Development		
	Restricted Funds	10,000	
Rockcastle County			
268.	Reauthorize "Match for Appalachia Community Initiative" and Redirect to Rockcastle County Industrial Authority for Land Acquisition and Job Creation or Expansion		
	(Restricted Funds - $245,000)		
Union County			
269.	City of Morganfield - Raw Water Main		
	Restricted Funds	1,000,000	
270.	Union County Fiscal Court - Sewer Line		
	Restricted Funds		1,000,000
271.	Union County Water District - Water Line Extension		
	Restricted Funds	50,000	
272.	Uniontown Sewer Facility		
	Restricted Funds	150,000	
273.	Union County - Flood Plain Study		
	Restricted Funds	60,000	
274.	Union County - City of Morganfield - Morganfield Pedestrian Destination: Land Acquisition, Site Development, and Professional Services		
	Restricted Funds	371,500	
275.	Union County - City of Sturgis - Purchase Property and Building, Renovation, and Construction		
	Restricted Funds	100,000	
Webster County			
276.	Sebree South Industrial Park - Sewer Line Extension		
	Restricted Funds	800,000	
277.	Webster County Water District - Water Line Extensions		
	Restricted Funds	600,000	
278.	Webster County Water District - Water Tank		
	Restricted Funds	500,000	
Whitley County			
279.	City of Corbin - Incline Road Water Line Extension		
	Restricted Funds	179,098	
280.	Whitley County Fiscal Court -		

	County Water Line Extensions		
	Restricted Funds		221,800
281.	Whitley County Water District - Nevisdale Water Line Extensions		
	Restricted Funds	170,730	
282.	Whitley County Library Board - Book Refurbishing and Replacement		
	Restricted Funds	50,000	
283.	Whitley County Fiscal Court - Animal Shelter		
	Restricted Funds	50,000	
284.	Whitley County Senior Citizens Center		
	Restricted Funds	96,000	
285.	Whitley County Fiscal Court - Trenching and Sewer Cleaning Machines		
	Restricted Funds		80,000
Wolfe County			
286.	City of Campton - Water Line Extension		
	Restricted Funds		217,673
287.	Hazel Green Fire Truck Purchase		
	Restricted Funds	158,000	

CAPITAL PROJECTS BUDGET PROVISIONS
FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2002, unless reauthorized in this Act with the following exceptions: (1) A construction contract for the project shall have been awarded by June 30, 2002; (2) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (4) Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), unless expressly reauthorized or reallotted in this Act. Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), that is not expressly reauthorized or reallotted in this Act is deemed to be reauthorized. Notwithstanding the criteria set forth in this section, the disposition of 2000-2002 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d) with the exception of the Cabinet for Families and Children. To facilitate the transfer of five buildings from the Cabinet for Families and Children to the Finance and Administration Cabinet, it is the intent of the General Assembly that any remaining balance in any currently authorized Cabinet for Families and Children non-bond funded project be credited to the Finance and Administration Cabinet Maintenance Pool. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2002.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The full amount of annualized debt service has been included at the beginning of fiscal year 2003-2004. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2003.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding KRS 45.750 to 45.810, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance, and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance, and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund in this Act.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund

source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below $5,000,000 in fiscal year 2002-2003, any debt service lapse necessary to bring the fund balance to $5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. If the Emergency Repair, Maintenance, and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2002-2003 in debt service lapse shall be deposited to the General Fund Surplus Account for the purpose of paying unbudgeted Necessary Government Expenses. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, Deferred Maintenance Pool Account, or the General Fund Surplus Account shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool," (L.1.a.). Agency Bonds, $31,300,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2002-2004 biennium.

Notwithstanding KRS 45.750 to 45.810, 45.812, 45.814, 45.816, and 45.818, capital construction projects at institutions of postsecondary education involving no state or Federal Funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. The Research Challenge Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.c.) shall be transferred to the Research Challenge Trust Fund as established in KRS 164.7911 and 164.7917.

9. The Regional University Excellence Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.d.) shall be transferred to the Regional University Excellence Trust Fund as established in KRS 164.7911 and 164.7919.

10. Notwithstanding 2000 Ky. Acts ch. 549, Capital Projects Budget Provisions for Part II, Capital Projects, 10., pertaining to the Capital Renewal and Maintenance Pool, the matching requirement is extended until June 30, 2004. Each postsecondary education institution may access any unmatched funds allocated from the Capital Renewal and Maintenance Pool to that institution after entering into an agreement with the Council on Postsecondary Education agreeing to fulfill the matching requirement by June 30, 2004. The Council on Postsecondary Education shall develop guidelines for the agreements.

11. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

12. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects Pool, Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Wetland and Stream Mitigation, Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool, Infrastructure projects, Employment Services facilities projects authorized in this part of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, initiatives, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

13. Notwithstanding KRS 42.560 or any other statute or provision of law to the contrary, all undisbursed funds in the Energy Assistance Trust Fund, the expenditure authority for which expired February 19, 1998, are hereby transferred and appropriated to the Energy Efficiency in State Government Buildings Revolving Loan Fund, contingent upon passage of enabling legislation. These funds represent receipts and accumulated interest thereon from the Stripper Well Settlement Agreement under the U.S. Department of Energy Stripper Well Exemption Litigation, as provided in KRS 42.560 to 42.566. These funds are appropriated as Restricted Funds in the Finance and Administration Cabinet's Capital Budget.

14. Notwithstanding KRS 154.33-600 to 154.33-609 or any other statute or provision of law to the contrary, all

moneys appropriated by the 1998 General Assembly and added to or reauthorized by the 2000 General Assembly for the Red Fox golf course are hereby reauthorized and reallocated to a new entity entitled "The Perry/Knott County Recreational Authority" (PKCRA) with the following exception: the $700,000 originally appropriated by the 1998 General Assembly from the Letcher County/Single County Coal Severance tax money is hereby directed to be returned to Letcher County. The balance of funds remaining in the heretofore entitled Red Fox/Carr Fork golf course project are authorized to be directed to a public recreational project or projects including but not limited to a public golf course at a site or sites to be determined by the Authority. The recreational project or projects supported by these funds shall be administered through a new bi-county cooperative authority comprised of one member from each of Knott and Perry Counties who shall be appointed by the respective County Judge/Executive and three members who shall be appointed by the Governor. The new five member Board of the Authority shall develop, operate, and manage the project. This authorization shall supersede any previous authorization by the General Assembly and any memorandum of agreement or understanding that has been entered into among the Commonwealth, Perry, Knott, and Letcher counties.

15. The appropriation by the 2000 General Assembly in the amount of $2,000,000 in Bond Funds for fiscal year 2001-2002 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 661, Aquaculture Infrastructure Components), in accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 4., of this Act, is reauthorized and reallocated in fiscal year 2002-2003 to be appropriated to Kentucky State University as follows: $600,000 to the Purchase Area Aquaculture Cooperative of which $450,000 is to be used for operating costs on the existing facility, education, initiatives to promote marketing and quality control, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Purchase Area Aquaculture Cooperative and the remaining $150,000 is to be used to complete the Pond Cost Share Program for farmers that were deemed qualified but due to rankings did not get funded; $900,000 to the Kentucky State University Aquaculture Program of which $800,000 is to be used for shrimp research and development, and the remaining $100,000 is to be used for bass research and development; $400,000 to the Montgomery County Aquaculture Cooperative, to be spent on the purchase and installation of aquaculture processing equipment, education, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Montgomery County Aquaculture Cooperative; and $100,000 to the Thoroughbred Shrimp Company in Franklin County for support and enhancement of its shrimp hatchery operations, including the purchase and installation of equipment and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Thoroughbred Shrimp Company in Franklin County.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2002-2003 or fiscal year 2003-2004, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government

Expenses during fiscal year 2002-2003 or fiscal year 2003-2004, respectively, then the appropriation increase may be approved. In the event that the review contemplated in this section indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for any variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2002-2004 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) On or before the beginning of each fiscal year; (2) On or before October 1; (3) On or before January 1; and (4) On or before April 1.

3. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

6. A state agency entitled to Federal Funds which would represent 100 percent of the cost of a program shall conform to KRS 48.730.

7. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2002, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2003 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget

of the Commonwealth, based upon the recommended Legislative Budget as enacted by the 2002 Regular Session of the General Assembly and the recommended State/Executive Budget and Judicial Budget as enacted by the 2003 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2002-2004 biennium, and based upon supporting documentation and legislative records as considered by the 2002 Regular Session of the General Assembly, the 2003 Regular Session of the General Assembly, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

17. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in an Act of the 2002 Regular Session of the General Assembly or another Act of the 2003 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2001 Regular Session to sine die adjournment of the 2002 Regular Session was not confirmed by the 2002 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2001-2002 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2002 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

18. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System shall be as follows: the General Assembly has determined that the employer contribution rate for the Kentucky Employees Retirement System for fiscal year 2002-2003 shall take appropriate notice of the additional revenues credited to the system as a result of the Anthem Blue Cross Blue Shield demutualization agreement. Therefore, from July 1, 2002, through June 30, 2003, the contribution rates shall be no more than three and seventy-six hundredths percent for nonhazardous duty employees, 17.6 percent for hazardous duty employees, and 17.37 percent for employees of the State Police Retirement System. From July 1, 2003, through June 30, 2004, the employer contribution rate shall be no more than five and eighty-nine hundredths percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System.

19. By August 15, 2003, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

20. By October 15, 2003, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

21. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2002 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

22. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

23. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or

unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

24. For fiscal year 2002-2003 and fiscal year 2003-2004, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

25. The Technology Trust Fund is the Technology Trust Fund established by 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Empower Kentucky Steering Committee. However, notwithstanding KRS 45.760(14), 45.770, 45.780, and 45.800, no funds from the Emergency Repair, Maintenance, and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

26. The General Assembly acknowledges that during fiscal year 2000-2001 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the Executive Branch contained in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04, and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04.

The General Assembly acknowledges that during fiscal year 2000-2001 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts ch. 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts ch. 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VII, for state government in accordance with KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriations levels for budget units of the Executive Branch contained in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02.

27. Notwithstanding KRS 138.510, tracks with an average daily handle of $1,200,000 or more shall be allowed a tax credit equal to $12,000 multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2002, and ending June 30, 2003, and $12,000 multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2003, and ending June 30, 2004, if an amount equal to at least 50 percent of the credit is used for capital improvements and at least 50 percent is used for horsemen's incentives. "Capital improvement" means any addition, replacement, or remodeling of a structural unit of the track, including but not limited to the construction of barns used for the track, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator or equipment, new access roads, new parking facilities, the reconstruction, reshaping, or leveling of the racetrack, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming part of the track structure. Fifty percent of the amount of the tax credit for the horsemen's incentives shall be allocated to purses at the track and 50 percent allocated for stabling and transportation costs. The method of dispersal of the stabling and transportation costs shall be agreed upon by the track receiving the tax credit and the horsemen's group or groups contracting with the track. If a track fails to complete a qualifying capital improvement or make qualifying expenditures for horsemen's incentives, the Kentucky Economic Development Finance Authority as created under KRS 154.20-010 shall order the track to repay to the state all or any portion of the amount of the tax credit received by the track. The track receiving the credit shall report quarterly to the Interim Joint Committee on Appropriations and Revenue on the amounts of qualifying capital improvements and expenditures for horsemen's incentives made for which the credit is claimed.

28. Notwithstanding KRS 138.510, for fiscal year 2002-2003 and fiscal year 2003-2004, all harness racetracks licensed by the Kentucky Racing Commission shall not be required to pay the excise tax imposed under KRS 138.510(2) and that amount that would have been paid shall be retained by the track to promote and maintain its facilities and its live meet.

29. Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

30. Notwithstanding KRS 97.035(1), (2), and (3), when a city of the first class and a county containing a city of the first class have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Notwithstanding KRS 97.035(1), (2), and (3), any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under KRS 97.035 may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.

31. As provided in Part V, Funds Transfer, of this Act, any funds remaining in flexible spending accounts of employees of local districts for calendar year 2002 and calendar year 2003 shall also be transferred to the credit of the General Fund.

32. Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

(a) Maintain records relating to these sales to assist in the collection of the use tax owed; and

(b) File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

33. Notwithstanding KRS 154A.130(3) and (4), $1,400,000 in fiscal year 2002-2003 and $1,400,000 in fiscal year 2003-2004 in net lottery revenues shall be retained in the General Fund.

34. Notwithstanding KRS 96.895, beginning with the distribution for fiscal year 2002-2003, each county which contains any portion of lands identified in the report of the Southern Appalachian National Park Commission and the Secretary of the Interior in April 1926 and ceded to the United States in 1942 shall receive, from the Department for Local Government, a maximum of $500,000 per year distributed to each county in proportion to the total percentage of the total land ceded in 1942 located in that county.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2002-2004 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2002-2004 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2002, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of two and seven-tenths percent is provided in fiscal year 2002-2003 and fiscal year 2003-2004 on the base salary or wages of each eligible state employee on their anniversary date.

4. Each budget unit with an authorized personnel complement in excess of the number of positions funded in this Act shall submit a plan to the Office of State Budget Director for approval identifying any adequate appropriate funding source prior to filling any positions above the funded number. Upon approval of the State Budget Director, the agency budget may fill the authorized number of positions.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2002-2003 and fiscal year 2003-2004.

		2002-03	2003-04
1.	Department of Insurance (KRS 304.2-400)	6,000,000	6,000,000
2.	Fire and Tornado Insurance Fund (KRS 56.095, 56.150, 56.180)	500,000	500,000
3.	Department of Insurance, Kentucky Access (KRS 304.17B-001 to 304.17B-031)	36,000,000	13,000,000
4.	Department of Financial Institutions (KRS 287.485)	1,000,000	2,000,000
5.	Underground Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-100 to 224.60-160)	71,000,000	20,500,000
6.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5 II. 5)	11,600,000	
7.	Strategic Investment and Incentive Funding Program Trust Fund - Interest Income (2000 Ky. Acts ch. 549, Part I, L., 56)	2,200,000	
8.	Flexible Spending Account (KRS 18A.225 (2)(g))	13,000,000	
9.	Health Purchasing Alliance Refund (KRS 304.17A-071)	3,630,200	
10.	State Employees Workers' Compensation Reserve (KRS 18A.370 to 18A.385)	4,000,000	
11.	Alcoholic Beverage Control (KRS 243.025)	250,000	250,000
12.	Asbestos Litigation Fund		340,600
13.	Kentucky State Fair Board - Freedom Hall Portable Trailers	300,000	

	(2000 Ky. Acts ch. 549, Part II, Sec. O(2)(c))			
14.	Bond Pool Fund (KRS 350.700)		1,000,000	2,000,000
15.	Humana Escrow (Account No. 7200-C47A-C00)		42,100	
16.	Health Insurance Adjustment (Account No. 7200-C47-B126)		300,700	
17.	School Districts Flexible Spending Accounts		14,000,000	14,000,000
18.	Commonwealth Choice			1,326,000
19.	Kentucky State Fair Board - Restricted Funds		1,500,000	1,800,000
20.	Kentucky Economic Development Finance Authority - Economic Development Cabinet		5,827,000	14,395,000
21.	Capital Construction Investment Income		4,000,000	3,000,000
22.	Capital Construction and Equipment Purchase Contingency Fund - (KRS 45.770)		13,928,000	
23.	Statewide Deferred Maintenance Fund - (KRS 45.782)	1,000,000		
24.	Capital Construction Surplus Account - (KRS 45.775)	2,009,000		
25.	Kentucky Pride Trust Fund - (KRS 224.43-505)		2,468,000	
26.	KY Agency for Substance Abuse – Tobacco Funds	1,500,000	1,500,000	
27.	Public Health – Tobacco Funds		250,000	
	TOTAL		194,837,000	83,079,600

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,916,450,000 in fiscal year 2002-2003 and $7,149,750,000 in fiscal year 2003-2004 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2002-2003 and 50 percent of the trust fund balance in fiscal year 2003-2004.

(5) Notwithstanding the provisions of KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2002-2003 and fiscal year 2003-2004. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,097,539,300 in fiscal year 2002-2003 and $1,131,218,300 in fiscal year 2003-2004 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2002-2004 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATIONS

1. GOVERNOR'S OFFICE OF TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office of Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

b. Electronic Health Network - Feasibility Study: The Interim Joint Committee on Health and Welfare of the Legislative Research Commission is directed to study the feasibility of implementing an electronic health network in the Commonwealth. The Interim Joint Committee on Health and Welfare will report its findings and recommendations to the Legislative Research Commission by December 1, 2002.

c. CMRS Board: Notwithstanding KRS 65.7639, no information provided to the CMRS Board under KRS 65.7639 shall be disclosed other than to the submitting CMRS provider, the administrator, the board, and the independent certified public accountant retained by the Board under KRS 65.7629(13) without the express permission of the submitting CMRS provider unless ordered by a court of competent jurisdiction.

2. DEPARTMENT OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2002-2004.

b. General Fund Operating Support: Notwithstanding KRS 45.229, the unexpended balance of the General Fund appropriation provided to the Eastern Kentucky Veterans' Center, the Western Kentucky Veterans' Center, and the Thompson/Hood Veterans' Center in fiscal year 2001-2002 shall not lapse and shall be carried forward into fiscal year 2002-2003; the unexpended balance of the General Fund appropriation in fiscal year 2002-2003 shall not lapse and shall be carried forward into fiscal year 2003-2004.

3. ATTORNEY GENERAL

a. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two assistant deputy attorneys general at a rate less than that required in KRS 15.100.

b. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2002-2004 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

c. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

d. Child Sexual Abuse Exams: Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victim's license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

e. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

f. Public Funds: Notwithstanding KRS 48.005(5)(b), up to $2,200,000 in funds collected pursuant to KRS 48.005(5) shall be deposited in an off-budget account and transferred to the County Cemetery Fund in accordance with Part IX, Special Provisions, Government Operations, 8.b., of this Act. Notwithstanding KRS 48.005(5)(b), any amounts in excess of $2,200,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action, or persons for whom the recovery is received if identified specifically. Identification includes but is not limited to identification either by individual Social Security numbers, by other identifying number, or by proper name.

4. UNIFIED PROSECUTORIAL SYSTEM

a. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in this Act.

5. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of 120 days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2003 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

6. DEPARTMENT OF AGRICULTURE

a. Agriculture - PACE Program: The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

b. Reauthorization of the Kentucky Aquaculture Task Force: The Kentucky Aquaculture Task Force is reauthorized and attached to the Department of Agriculture for administrative purposes. The membership, duties, and responsibilities of the Task Force shall be identical to those enacted by the 2000 Kentucky General Assembly, 2000 Ky. Acts ch. 77, except the Task Force shall develop an interim report by September 1, 2002, and a final report by September 1, 2003, with respect to the implementation of the State Aquaculture Plan recommendations and other recommendations that the Task Force may support relating to the aquaculture industry in the Commonwealth. The reports shall be submitted to the Governor and to the Legislative Research Commission.

Notwithstanding the provisions of this section, the Legislative Research Commission shall have the authority to alternatively assign the directives identified in this section to an interim joint committee or subcommittee thereof, and to designate a study completion date. In the event the Legislative Research Commission assigns the responsibilities and duties relating to the Kentucky Aquaculture Task Force to an interim joint committee or subcommittee thereof, any funds remaining from the amounts provided in Part I, Operating Budget, of this Act for the purpose of preparing the reports to be completed by the Task Force shall be transferred to the Legislative Research Commission.

7. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

8. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

b. Cemetery Preservation: Restricted Funds of $2,200,000 attributable to Multi-State Consumer Protection Lawsuit Settlement Proceeds shall be transferred to the County Cemetery Fund pursuant to KRS 67.682. In fiscal year 2002-2003, $1,450,000 is appropriated from these funds in the form of grants pursuant to KRS 67.682. The remaining unappropriated Restricted Funds transferred to the County Cemetery Fund shall not lapse and shall carry forward from each fiscal year to the succeeding fiscal year. In fiscal year 2003-2004, $250,000 is appropriated from these funds in the form of grants pursuant to KRS 67.682. Included within the above appropriated amounts, $1,200,000 shall be made available to the Louisville/Jefferson County Cemetery Preservation initiative upon certification to the Department for Local Government that $800,000 in local cash matching resources has been raised. The City of Louisville shall administer this initiative. Also included within the above appropriated amounts is $250,000 in each fiscal year of the biennium for cemetery preservation grants to be approved by the Department for Local Government subject to a dollar-for-dollar cash or non-cash match from individual public or private grant applicants. Included in the above appropriated amounts is $6,000 each fiscal year that is appropriated and granted to the Fayette County African Cemetery #2. Notwithstanding KRS 42.500, the Department for Local Government may expend interest earnings from the County Cemetery Fund for program administration upon application to and approval from the State Budget Director whose approval shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630. Funds credited to the County Cemetery Fund shall be invested by the Finance and Administration Cabinet according to existing law.

9. EDUCATION PROFESSIONAL STANDARDS BOARD

a. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

b. Teacher Education Model Program: Funding in the amount of $2,000,000 shall be provided during fiscal year 2002-2003 for a Teacher Education Model Program to be administered by the Education Professional Standards Board. The purposes of the program shall be to:

(1) (a) Support model teacher education programs that demonstrate effective research-based instruction and assessment practices, involve the entire university community in teacher education, demonstrate collaboration and partnerships between elementary, secondary, and postsecondary education, facilitate the recruitment and retention of talented people in the teaching profession through innovative, nontraditional programs and multiple certification routes, require high-quality, extensive field experiences and practicums in addition to ongoing classroom observations as an essential element at all stages of the Teacher Preparation Program, and raise the existing and prospective teachers' professional knowledge in content and pedagogy.

(b) Provide incentives to teacher education and other university faculty to increase service activities beyond the usual field observations and supervision of teacher education students to include mentoring and guiding of prospective teacher education students, of beginning teachers in the induction stage, and of experienced teachers in continuous improvement activities; conducting training and professional development activities which may include funding stipends to teachers for participation; providing funding and supervision for paid sabbaticals for a selected number of local school district teachers;

assisting teachers with evaluation and revision of curricula and instruction to improve student achievement; and other innovative strategies to improve the quality of teaching.

(2) By October 15, 2002, the Board shall identify two or more public or independent teacher education institutions or consortia of institutions that meet the criteria in subsection (1)(a) of this section and are eligible to make applications for funds under this section.

(3) By November 1, 2002, the Board shall establish the grant request process, the time frame, and the system for determining the size of the grants. In determining the size of the grants, the Board shall consider the scope of the Teacher Education Program, the number of undergraduate and graduate students enrolled, the number of teacher and administrator interns, the extent of university-wide faculty involvement in induction and in-service activities with teachers in local school districts, and other data as deemed appropriate by the Board. By January 1, 2003, all eligible institutions shall be notified of the request for proposals.

(4) The Board shall make the grant awards prior to the start of the 2003-2004 fiscal year.

10. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

ECONOMIC DEVELOPMENT

11. OFFICE OF THE SECRETARY

a. New Economy: Funding for the Commissioner for the New Economy: Notwithstanding Subtitle 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the Commissioner for the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects.

Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget.

b. New Economy Women and Minority Programs: The Commissioner of the Office for the New Economy shall develop a New Economy Role Model Program and Entrepreneurial Educational Program that will encourage the participation of women and minorities in the knowledge-based economy. Such activity shall be reported within the Annual Report to the Governor and General Assembly as prescribed by KRS 164.6015(9)(d).

12. FINANCIAL INCENTIVES

The total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,000,000 for all investors and all taxable years. The total Kentucky Investment Fund Act (KIFA) tax credits available for all investors in all investment funds shall not exceed $3,000,000 per fiscal year.

Notwithstanding KRS 154.20-255 and 154.20-256, the Commissioner of the Office for the New Economy shall establish standards and criteria that shall be used to grant investment fund managers a waiver from compliance with KRS 292.330 and any other requirement under state law that an investment fund manager shall be a registered investment advisor. A waiver granted by the Commissioner of the Office for the New Economy to any investment fund manager that exempts the investment fund manager from complying with KRS 292.330, or the Kentucky Economic Development Fund Authority's approval of an investment fund or investment fund manager under this section, shall not be construed a certification of the investment fund manager's experience, knowledge, quality or other abilities and competencies. This information shall be conveyed to each investor.

Notwithstanding 2002 Ky. Acts ch. 230, any administrative regulation to be promulgated regarding the programs, policies, or tax credits addressed in 2002 Ky. Acts ch. 230 shall be reviewed and approved by the Commissioner of the Office for the New Economy.

The Department of Financial Incentives shall defer to the Commissioner of the Office for the New Economy when preparing contracts subsequent to the Kentucky Economic Development Finance Authority's approval of projects recommended by the Commissioner of the Office for the New Economy. These contracts shall be acted upon within 60 days following the approval of the Authority.

DEPARTMENT OF EDUCATION

13. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: Notwithstanding KRS 157.360(2)(c), the General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) Program are intended to provide a base guarantee of $3,149 per student in average daily attendance in fiscal year 2002-2003 and $3,234 per student in average daily attendance in fiscal year 2003-2004 as well as to meet the other requirements of KRS 157.360.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Classified Staff Cost of Living Adjustments: The General Assembly directs local school districts to provide not less than a two and seven-tenths percent cost-of-living adjustment to classified employees in fiscal year 2002-2003 and in fiscal year 2003-2004.

c. Consumer Price Index: For purposes of implementing the provisions of KRS 157.420, the percent increase in the average annual Consumer Price Index for all urban consumers between the two most recent calendar years refers to calendar year 2001 compared to calendar year 2000; the resulting two and eight-tenths percent increase shall be applicable in fiscal year 2002-2003 and fiscal year 2003-2004.

d. Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

e. Local Revenue: Notwithstanding KRS 160.470(1), all local school districts shall be permitted to levy a tax rate for calendar year 2002 and calendar year 2003 that does not produce more than four percent more revenue than the compensating tax rate as defined in KRS 132.010.

f. SEEK Adjustment Factors: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

14. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

b. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

c. Medicaid Reimbursement Funds: The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid Program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Medicaid Services but shall be accumulated pending action and review by the 2003 Regular Session of the General Assembly.

d. Elementary Arts and Language Education: The Department of Education shall establish a program that promotes the integration of the arts and foreign languages in the elementary school program. A school must submit any application through the district superintendent, with the agreement of the school council or of the principal, if a council does not exist. Out of any moneys made available for this purpose in the 2002-2004 fiscal biennium, the department shall award a grant to a least one school per region based on the quality of the application in meeting the criteria established in this section. Special consideration shall be given but not limited to a school that does not have an existing comprehensive arts and foreign language program.

School programs under this section must include, at a minimum, the following components: (1) Instruction in each of the four disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school; (2) Intense instruction in at least one foreign language and culture taught and including all students in the elementary school; (3) Integration of arts and foreign language instruction across the curriculum; (4) Coordination of the programs by teachers with appropriate arts and foreign language certification; (5) Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign language; (6) An effective monitoring and evaluation system that includes student performance assessment; (7) Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers; (8) Support from the local school board, the school council, and teachers; and (9) Student attendance at one or more live performance or visual art exhibition each school year.

The Department of Education shall report annually on the implementation of the program to the Governor and the Legislative Research Commission.

15. LEARNING AND RESULTS SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2002-2003 but shall be available if needed in fiscal year 2003-2004. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the per month per employee assessment as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System:

(1) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(2) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Family Resource and Youth Services Centers: Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2002-2003 and in fiscal year 2003-2004 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 2001-2002 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than 70 percent of its fiscal year 2001-2002 allocation.

e. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

f. Allocation of Safe School Funds: Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

g. Gifted and Talented Funds: All moneys appropriated for the Gifted and Talented Program shall be expended by local school districts solely for purposes and activities relating to the Gifted and Talented Program.

h. Fund Transfers: The Commissioner of the Department of Education may transfer any available funds between the Professional Growth Fund and the Professional Development Leadership Mentor Fund as needed to satisfy the demand and need to support respective teacher programs.

i. Program Flexibility: Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regard to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall be modified to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population.

j. Advisory Council for Gifted and Talented Education: Notwithstanding KRS 158.648(1), a member of the Advisory Council for Gifted and Talented Education may be reappointed but may not serve more than three consecutive terms.

EDUCATION, ARTS, AND HUMANITIES

16. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapters 158 and 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

17. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2002-2003 and fiscal year 2003-2004 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

c. School Operations: School #840, a historical community school in district #175, shall not be closed or substantially changed.

d. Growth Nickel Levy: The Facilities Support Program of Kentucky is fully funded in fiscal biennium 2002-2004. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

e. Facilities Plans: Notwithstanding KRS 157.620(5), any school district that did not receive an offer of assistance during the 2000-2002 biennium that resulted from the $100,000,000 authorization of the 2000 General Assembly, that has an unmet need established based on the facility plan in effect on June 30, 2002, shall receive an offer of assistance based on any increase to the above-referenced authorization made by the 2003 General Assembly that is not specifically designated for another purpose.

18. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Undistributed moneys: Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with a book supplier shall be appropriated to the Department of Libraries and Archives for the benefit of libraries in the Commonwealth.

CABINET FOR FAMILIES AND CHILDREN

19. CABINETWIDE

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet. Phase I Tobacco Settlement Funds appropriated to the Cabinet may be used as state match to maximize Federal Funds available through the Child Care Development Fund.

b. Human Services Transportation Delivery: Notwithstanding KRS 281.014, 281.870, 281.872 or any other statute or provision of law to the contrary, the Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

20. COMMUNITY BASED SERVICES

a. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of seven percent of total adult public assistance recipients placements in postsecondary or vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance.

b. Severely Emotionally Disturbed Children: Included in the General Fund appropriation is $600,000 in fiscal year 2002-2003 and $600,000 in fiscal year 2003-2004 to provide services for state-committed severely emotionally disturbed children.

c. Child Support Contracting Officials: Included in the General Fund and Federal Funds appropriations for Community Based Services is support for Child Support Contracting Officials to be maintained at the fiscal year 2001-2002 total contracted level of $33,185,100. Up to $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 of Child

Support Performance Award Funds may be utilized in the Child Support Contracting Officials Contracts to maximize Federal Funds. Funds for individual contracts shall be allocated based on spending and performance patterns utilizing an equity plan negotiated between the Cabinet for Families and Children and the County Attorney Association.

d. Adoptions: In addition to the required health history, the Cabinet for Families and Children or child-placing agency shall provide to adoptive parents or adopted person and to the Circuit Court in writing on a standardized form other nonidentifying background information of the biological parents and blood relatives of the adopted person. The information shall be provided in accordance with KRS 199.520.

HEALTH SERVICES

21. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

22. MEDICAID ADMINISTRATION

a. Transfer of General Fund or Restricted Funds from Medicaid Benefits to Medicaid Administration: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability and Accountability Act (HIPAA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director, and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Kentucky Patient Access to Care (KenPAC) Program Reimbursement: The Medicaid Benefits Budget includes funds to continue an Enhanced Kentucky Patient Access to Care (KenPAC) Program with reimbursement to gatekeeper providers on a sliding scale of $3 to $9 per member per month based upon performance and quality criteria. The Department for Medicaid Services shall promulgate administrative regulations which reflect this Act.

c. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

d. Administrative Service Organization: The Department for Medicaid Services shall, no later than July 1, 2002, initiate a formal procurement process, pursuant to KRS Chapter 45, to contract with an Administrative Service Organization (ASO). This organization shall assist with the administration of the Kentucky Access to Patient Care (KenPAC) Program for all geographic areas of the Commonwealth except those areas covered by the Region III Medicaid Partnership (Passport Health Plan). Responsibilities of the ASO shall include but not be limited to: (1) Data collection and analysis for purposes of utilization management of KenPAC services; (2) Client education and assignment; (3) Provider recruitment and education; (4) Physician profiling, including an analysis of cost and utilization by category of service (i.e. inpatient, outpatient, emergency room (ER), laboratory, ambulatory, pharmacy, and home health), and an analysis of cost by diagnoses codes for peer comparisons of utilization; (5) Support services for KenPAC primary care providers including disease management, a help desk for the management of ER services, and the restructuring of payment methodologies to align with utilization management goals; and (6) The design and management of provider incentives and measures to assure program integrity and management of the Lock-in Program. Using improved data collection methods, the ASO shall focus on cost containment and utilization management for all KenPAC services including hospital, home health, pharmacy, durable medical equipment and diagnostics, with a special emphasis on the management of care for high cost utilizers. In order to monitor the effectiveness of managed care through the Primary Care Case Management KenPAC model, an annual report shall be prepared which shall include but not be limited to patient-centered measures and an analysis utilizing the National Committee for Quality Assurance Health Plan Employer Data and Information Set (HEDIS) quality and use of services measures. HEDIS measures currently include: (1) Childhood immunization status; (2) Adolescent immunization status; (3) Breast cancer screening; (4) Cervical cancer screening; (5) Chlamydia screening for women; (6) Controlling high blood pressure; (7) Beta-blocker treatment after a heart attack; (8) Cholesterol management after acute cardiovascular events; (9) Comprehensive diabetes care; (10) The use of appropriate medications for persons with asthma; (11) Follow-up after hospitalization for mental illness; (12) Antidepressant medication management; (13) Advising smokers to quit; (14) Adults' access to preventive/ambulatory health services; (15) Children's access to primary care practitioners; (16) Prenatal and postpartum care; (17) Annual dental visits; (18) Practitioner turnover; (19) The frequency of on-going prenatal care; (20) Well-child visits in the first 15 months of life; (21) Well-child visits in the third, fourth, fifth, and sixth year of life; (22) Adolescent well-care visits; (23) The frequency of selected procedures; (24) Inpatient utilization of general hospital/acute care; (25) Ambulatory care (includes ER); (26) Inpatient utilization of non-acute care; (27) Discharge policies and average length of stay for maternity care; (28) Cesarean section; (29) Vaginal birth after cesarean section birth rate (VBAC rate); (30) Births and average length of stay for newborns; (31) Mental health utilization - inpatient discharges and average lengths of stay; (32) Mental health utilization - the percentage of members receiving services; (33) Chemical dependency utilization - inpatient discharges and average lengths of stay; (34) Chemical dependency utilization - percentage of members receiving services; and (35) Outpatient drug utilization. The annual report shall also include: (1) An evaluation of provider-centered measures; (2) The success of an analysis of physician profiling including financial profiling, and case-mix adjusted profiling; (3) Trend rates of the utilization of all KenPAC services; (4) Provider surveys; and (5) Cost containment realization. The annual report shall also profile patient population measures and trends, including eligibility by age, gender, and eligibility category. To the extent possible, the annual report shall also include comparisons to similar programs in peer states, particularly the southern region.

e. Nursing Facility Reimbursement Review: The Cabinet for Health Services shall review the current reimbursement methodology for nursing facility services to determine if current price-based methodology reflects actual direct nursing care costs and promotes quality long term care. The Cabinet shall include the following organizations in this study panel: Kentucky Hospital Association, Kentucky Association of Homes and Services for the Aging, and the Kentucky Association of Health Care Facilities. The report shall be due to the Legislative Research Commission, Interim Joint Committee on Appropriations and Revenue, and Interim Joint Committee on Health and Welfare by December 1, 2002.

23. MEDICAID SERVICES - BENEFITS

a. Disproportionate Share Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Office of Inspector General, Division of Community Health Services, shall include this provision in facilities' annual licensure inspection.

d. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

e. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

f. Kentucky Children's Health Insurance Program: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from the Medicaid Benefits to the Kentucky Children's Health Insurance Program (KCHIP) General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

g. Intergovernmental Transfers (IGT's): It is the intent of the General Assembly that any funds received through an intergovernmental transfer agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from Intergovernmental Transfers are contingent upon agreement by the parties and, when negotiated, the Secretary shall make the appropriations increase requests pursuant to KRS 48.630.

h. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available, effective July 1, 2000. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in Part I, Operating Budget. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements.

i. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care (KenPAC), nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

j. Medicaid Benefits Budget Deficit: In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health Services shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis. No service, eligible, or program reductions shall be implemented by the Cabinet for Health Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue. Objections to the actions by the Committee shall be responded to in writing in detail, by the Secretary for Health Services within 30 days of such objections.

k. Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health Services may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid Program or the number of eligibles, or transfer General Fund up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible or program shall be increased without prior communication to the Medicaid Steering Committee and written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Cabinet for Health Services, the recommendations shall be invalid unless:

(1) They are revised to comply with the objections of the committee; or

(2) The committee is informed in writing, in detail, within 30 days of the committee's objections that a determination has been made not to comply with the objections of the committee.

l. Breast and Cervical Cancer Treatment Program: The Department for Medicaid Services shall request a plan amendment from the Centers for Medicare and Medicaid Services to extend coverage to uninsured women who are under age 65, not otherwise eligible for Medicaid, have breast or cervical cancer as diagnosed through a recognized screening program, need treatment for breast or cervical cancer and meet any other eligibility criteria established under the Federal Breast and Cervical Prevention and Treatment Act of 2000. Medical assistance for breast or cervical cancer, or precancerous conditions, shall be limited to treatment until a cure or remission is achieved. Medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under this Act. This program may accept gifts, grants, and bequests in support of its mission and duties specified in this Act. All money received shall be administered by the Cabinet, which shall administer these funds through appropriate trust and agency accounts. The Department for Medicaid Services shall promulgate administrative regulations to implement this program within three months of federal approval of the state plan amendment.

m. Pervasive Developmental Disorders: As used in this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five diagnostic subcategories: (1) Autistic disorder; (2) Pervasive disorder not otherwise specified; (3) Asperger's disorder; (4) Rett's disorder; and, (5) Childhood disintegrative disorder. The Department for Medicaid Services shall make application, within three months of the effective date of this Act, to the Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who: (1) Are Medicaid eligible; (2) Have an Axis I diagnosis of a pervasive developmental disorder; (3) Are institutionalized or at risk for institutionalization; and (4) Require a coordinated plan of medically necessary community-based behavioral health services. The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices. The waiver application shall specify the required credentials for the providers of each service. The Cabinet for Health Services shall capitate the number of children served under the Waiver Program to ensure budget neutrality based upon the expenditures for children with pervasive developmental disorders that were served under the IMPACT Plus Program during fiscal year 2001-2002. The Cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated moneys including but not limited to a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual. The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services. The Department for Medicaid Services shall report by December 1, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes.

n. Supports for Community Living Waiver: Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

24. DEPARTMENT FOR PUBLIC HEALTH

a. Abstinence Education: The Department shall use Federal Funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: 95 percent shall be used for community-based grants to institute abstinence education programs; five percent shall be used to administer and evaluate the effectiveness of the program; and, if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign.

25. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997, as amended by the Benefits Improvements and Protection Act of 2000, in the amount of $36,620,100 in fiscal year 2002-2003 and $37,718,700 in fiscal year 2003-2004.

b. Restricted Funds Carry Forward: Any unbudgeted Restricted Funds which carry forward in fiscal year 2002-2003 or fiscal year 2003-2004 in the Department for Mental Health/Mental Retardation may be used for grants to Community Mental Health Centers.

c. Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders and Dual Diagnoses: Notwithstanding KRS 210.504, the Department for Mental Health/Mental Retardation shall provide at least $12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and Commission activities relating to the mandates of KRS 210.500, 210.502, 210.504, 210.506, and 210.509, through June 30, 2004. The regional planning councils shall make recommendations for, and the Commission shall develop, a two year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and Interim Joint Committee on Health and Welfare by December 1 of each year.

d. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice, and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Kentucky Jailers' Association, Jail Standards Commission, and Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002.

e. Mental Health Consultation and Education to Jails: The Department for Mental Health/Mental Retardation Services shall develop a training curriculum and allocate funds to Regional Mental Health/Mental Retardation Boards for training, consulting with, and educating jailers and jail staff on screening and responding to the needs of individuals with mental illness in jails. The training curriculum shall be based on national best practices and include a model working agreement between a Regional Mental Health/Mental Retardation Board and a jail. The training shall be delivered by Regional Mental Health/Mental Retardation Board staff to jailers and jail staff on screening and responding to the needs of inmates with mental illness. Jailers and each jail staff, except administrative support, shall attend the training the first year of the program or within six months of employment. Remaining funds shall defray costs of the Regional Mental Health/Mental Retardation Board for entering into working agreements with the region's jails for: (1) Delivery of the training curriculum to jailers and jail staff; and (2) Consultation and education on individual inmate's needs to jailers and jail staff in accordance with a working agreement. The specific arrangements in a working agreement shall be based on the needs and capacities of the jail. Treatment services may also be provided for in a working agreement, but the cost of treatment is beyond the scope of this appropriation.

f. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least $233,000 in each fiscal year, absent any pass-throughs to any other entities.

26. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Kentucky Early Intervention System Analysis Reports: The Commission for Children with Special Health Care Needs shall submit a quarterly budget analysis report for the Kentucky Early Intervention Services Program to the Interim Joint Committee on Appropriations and Revenue. The report shall provide the number of children enrolled, the average number of service units by category of service, and the average cost per service, by category of services, and compare actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

27. CERTIFICATE OF NEED

a. Voluntary Relinquishment of a Certificate of Need or Licensure: For 48 months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

b. Notwithstanding KRS 216B.020(1), the provisions of KRS Chapter 216B that relate to the issuance of a certificate of need shall not apply to a health facility that will provide primary care services, 24-hour emergency services, diagnostic imaging (including magnetic resonance imaging), ambulatory surgical services, and such other outpatient services as are necessary to serve the needs of residents of a county if there are no review criteria for those other outpatient services in the state health plan and if the health facility will be located in a county that has no hospital, has a population of 60,000 or more persons, and is a medically underserved area as determined by the Secretary of the Federal Department for Health and Human Services. The listed facility or services shall be subject to licensure, when applicable. The Cabinet for Health Services shall work in conjunction with the fiscal court of the county in which the health facility under this subsection is to be located to issue a request for proposal for only one health facility no later than four months following the effective date of this Act. If the Cabinet and county both do not agree on the selection of the proposal within six months following the effective date of this Act, then there shall be no exemption from a certificate of need for a health facility under this section. No proposal shall be selected under this paragraph more than six months after the effective date of this Act.

28. AGING SERVICES

a. Local Match Requirements: Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health Services to provide essential services under KRS 205.455 and this provision shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

29. JUSTICE ADMINISTRATION

a. Construction Training Program: General Fund moneys appropriated to the Urban League of Lexington-Fayette County Construction Training Program in fiscal year 2002-2003 shall be used to match Federal Byrne Grant Funds. The Secretary of Justice shall supplement the General Fund appropriation with Federal Funds up to a combined total of $300,000 each fiscal year if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. All moneys appropriated that cannot be utilized to match federal grants moneys shall be provided to the Urban League of Lexington-Fayette County Construction Training Program in the form of a grant to continue its activities. The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

30. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, charter county government, consolidated local government, or any combination thereof, to provide 911 emergency telephone service.

31. JUVENILE JUSTICE

a. Juvenile Detention: Madison County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Madison County juvenile detention facility may remain open to hold juveniles from Madison County until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3) and in Part I of this Act.

b. Juvenile Justice Grant: Included in the General Fund appropriations in Part I, Operating Budget, Section H. Justice Cabinet, Juvenile Justice is $35,000 in fiscal year 2002-2003 and $35,000 in fiscal year 2003-2004 to support the Survivor's II Program in Fayette County. General Fund moneys provided for the Survivors II Grant shall not be taken from any moneys or grants that would otherwise be awarded to Prevention Council funds of Lexington-Fayette County nor any other Prevention Council funds and shall come from the Support Services unit of the Juvenile Justice Budget.

32. CORRECTIONS MANAGEMENT

a. Appropriation Adjustments: The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2002-2003 and in fiscal year 2003-2004; community services and local facilities and adult correctional institutions. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written justification to the Interim Joint Committee on Appropriations and Revenue and written concurrence of the State Budget Director. The State Budget Director shall report such adjustments and the necessity of the adjustment to the Interim Joint Committee on Appropriations and Revenue.

b. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental

Illness, Alcohol, and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles with mental illness in detention centers. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002. The report shall also be provided to the Jail Standards Commission.

c. Green River Correctional Complex - Fencing: The Department of Corrections shall erect a fence around the minimum security facility at the Green River Correctional Complex.

33. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Probation and Parole Credit: Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354, or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

34. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support, Natural Resources, Environmental Protection, and Surface Mining Reclamation and Enforcement budget units for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. NOx Credits: Within ten days of the Natural Resources and Environmental Protection Cabinet's receipt of U.S. Environmental Protection Agency's approval of a revised State Implementation Plan complying with 40 C.F.R. 51.121 and authorizing the sale of NOx allowances, the Natural Resources and Environmental Protection Cabinet shall notify the Finance and Administration Cabinet. Upon such notification, the Finance and Administration Cabinet shall have the authority to execute the sale of the NOx allowances. The proceeds from the sale shall be credited to the General Fund and deposited into the State Treasury.

35. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Hazardous Waste Fund: Notwithstanding KRS 224.46-580, the Department is authorized to expend up to $25,000 from the Hazardous Waste Management Fund for the purposes of conducting an audit of the sources and amounts of income and expenditures from the fund.

36. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have 30 days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

37. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

38. KENTUCKY NATURE PRESERVES COMMISSION

a. Minor Use or Development: Notwithstanding KRS 146.410 to 146.535, the Kentucky State Nature Preserves Commission may allow a minor use or development upon or near the property boundary of a nature preserve when the minor use or development results in the addition of acreage to the preserve, furthers the goal of encouraging land use adjacent to the preserve which can help protect the character of the preserve, furthers an important public purpose identified by another state or local public agency, and does not substantially or fundamentally alter the character of the preserve.

POSTSECONDARY EDUCATION

39. COUNCIL ON POSTSECONDARY EDUCATION

a. Research Challenge Trust Fund Account: The proceeds of the Endowment Match Program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.c., shall be invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Research Challenge Trust Fund and any required matching funds may be expended.

b. Regional University Excellence Trust Fund: The proceeds of the Endowment Match Program authorized in Part II, Capital Projects Budget, under the Council on Postsecondary Education, budget unit, project L.1.d., shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and any required matching funds may be expended.

c. Enrollment Growth and Retention Funding Program: The Council on Postsecondary Education (CPE) shall, by July 1, 2003, develop guidelines for the distribution of Enrollment Growth and Retention Funding Program funds that may be requested during the 2004-2006 biennial budget request process. The CPE shall develop the guidelines in collaboration with the university presidents to ensure a fair and equitable plan for distribution that promotes the implementation of the Postsecondary Education Act of 1997. The guidelines shall be presented to the Strategic Committee on Postsecondary Education (SCOPE) for prior review before the final adoption by CPE.

d. Strategic Investment and Incentive Trust Funds Interest Income: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $6,581,700 shall be transferred from Strategic Investment and Incentive Trust Funds included under these statutes and the trust funds created by 2000 Ky. Acts ch. 549, Part I, L., 56, to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes. Included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I is $100,800 in fiscal year 2002-2003 and $105,500 in fiscal year 2003-2004 for the Minority Student Preparation Program; $187,000 in fiscal year 2002-2003 and $188,400 in fiscal year 2003-2004 for the Southern Regional Education Board Doctoral Scholars Program; $1,000,000 each year of the biennium for the Rural Innovation Program; $1,000,000 in each year of the biennium for the Knowledge-Based Economy Academic Programs; and $2,000,000 in fiscal year 2002-2003 for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program/Science and Engineering Foundation.

e. Kentucky Science and Technology Funding Program: Notwithstanding KRS 164.6027 and 164.6029, included in the General Fund and Restricted Funds appropriations to the Science and Technology Funding Program in Part I, Operating Budget, is $4,521,600 in each year of the biennium for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program and the Science and Engineering Foundation; $3,000,000 in each year of the biennium for the Kentucky Research and Development Voucher Program; $750,000 in each year of the biennium for the Kentucky Commercialization Fund; $500,000 in each year of the biennium for the Regional Technology Corporations and Satellite Innovation and Commercialization Centers; and $1,000,000 in each year of the biennium for the Rural Innovation Program.

f. Lung Cancer Research Fund Interest Transfer: Notwithstanding KRS 164.476, interest earnings up to $300,000 from the Lung Cancer Research Fund may be transferred to the Agency Revenue accounts of the Council on Postsecondary Education to support the Knowledge-Based Economy Academic Program included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I, Operating Budget.

g. Science and Technology Trust Fund: Notwithstanding KRS 164.6019, 164.6027, and 164.6035, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the appropriation in fiscal year 2002-2003 and fiscal year 2003-2004 as necessary from the Council on Postsecondary Education, Science and Technology Funding Program shall be transferred to the Office of the Commissioner for the New Economy within the Cabinet for Economic Development. The Office of State Budget Director shall certify the transfer.

h. Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund accounts: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, the Council on Postsecondary Education may transfer interest earnings from the Strategic Investment and Incentive Trust Fund accounts to the Agency Revenue accounts of the Council, and expend them upon application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

i. Kentucky Science and Technology Corporation: Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the Commissioner for the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

j. Student Financial Aid and Advancement Trust Fund: The Council on Postsecondary Education shall transfer $750,000 in interest income from the Student Financial Aid and Advancement Trust Fund to the Kentucky Higher Education Assistance Authority in fiscal year 2002-2003 to assist in the financing of the Kentucky Educational Excellence Scholarship (KEES) Program.

k. Concept Phase Funding Pool: Notwithstanding KRS 164.6021, the funds appropriated in Part I, Operating Budget, to the Council on Postsecondary Education for the Research and Development Voucher Program may be used to fund the Concept Phase Funding Pool.

l. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the General Assembly.

m. Postsecondary Education Employment Status: Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined under KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

n. Efficient Facilities: The General Assembly directs that the Hunt Morgan Addition and Pharmacy Building Addition endorsed for construction by the Council on Postsecondary Education in its 2002-2004 fiscal biennial budget recommendation to the General Assembly, both being designed for wet lab research and having similar requirements for support facilities that can be shared to maximize research space and operational efficiency, shall be constructed as one building.

40. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

a. Student Loan Corporation: Notwithstanding KRS 164A.240, the Kentucky Higher Education Student Loan Corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.230, provided that the proceeds of the bonds may be used for the educational loan programs and shall not be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020; provided further that the corporation may without further approval finance education loans which are not insured student loans in an aggregate principal amount not exceeding $10,000,000 from the proceeds of any bonds, notes, or lines of credit of the corporation which are primarily secured by insured student loans. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged, and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth. In addition, no bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education; provided that the corporation may without further approval finance education loans which are not insured student loans in an aggregate principal amount not exceeding $10,000,000 from the proceeds of any bonds, notes, or lines of credit of the corporation which are primarily secured by insured student loans. In making the determination of need, the Governor and Legislative Research Commission shall consider the availability of other student assistance resources.

41. EASTERN KENTUCKY UNIVERSITY

a. Capital Renewal and Maintenance Pool: Notwithstanding the provisions of 2000 Ky. Acts ch. 549, Part II, 10., pertaining to eligible projects and matching requirements, and notwithstanding the provisions of Part II, 10., of this Act, pertaining to the matching requirement, $422,000 in bond funds out of Eastern Kentucky University's 2000-2002 Capital Renewal and Maintenance Pool allocation are reauthorized and reallocated for new construction of water lines to provide water service for the Corbin Campus.

42. KENTUCKY STATE UNIVERSITY

a. Non-Federal Matching Requirement: Included in the Restricted Funds appropriation to Kentucky State University in Part I, Operating Budget, is $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 to enable Kentucky State

University to fully fund the non-federal matching requirement under the provisions of the Federal Agriculture Research, Extension, and Education Reform Act of 1998. Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.1915, 164.7917, 164.7919, 164.7921, 164.7923, and 164.7925, interest income in the amount of $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 shall be transferred to Kentucky State University by the Council on Postsecondary Education.

43. UNIVERSITY OF KENTUCKY

a. Interest Income: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of $234,800 shall be transferred to the University of Kentucky from the Council on Postsecondary Education in fiscal year 2002-2003.

b. University of Kentucky Center for Rural Health: This facility shall be financed by the issuance of tax exempt bonds by the State Property and Buildings Commission. Lease rental payments from the University of Kentucky to the Appalachian Regional Hospital Corporation in the amount of $383,000 per year and lease rental payments by Hazard Community College to the Appalachian Regional Hospital Corporation in the amount of $145,000 per year provide the fund source of lease rental payment to the State Property and Buildings Commission for the purpose of providing debt service for bonds to fund the facility. It is recognized that the lease rental payments by the University of Kentucky and by Hazard Community College to Appalachian Regional Hospital Corporation are necessary to provide the space needs of the University of Kentucky and Hazard Community College until the completion of the new building facility. Therefore, these lease rental payments are not available for lease rental payments to the State Property and Buildings Commission for the issuance of the tax exempt bonds to be used to finance the project until the completion of the new building. The Office for Financial Management within the Finance and Administration Cabinet shall work with the Council on Postsecondary Education to provide an interim financing program to allow for the construction of the new facility, without diversion of the lease rental payments by the University of Kentucky and the Hazard Community College, to the Appalachian Regional Hospital Corporation, and to the State Property and Buildings Commission until such time as the new facility is completed.

c. Ovarian Cancer Screening Outreach Program: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) dollars in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky. The Ovarian Cancer Screening Outreach Program may accept gifts, grants, and bequests in support of its mission and duties. All funds received shall be administered by the University of Kentucky through appropriate trust and agency accounts.

44. UNIVERSITY OF LOUISVILLE

a. Quality and Charity Care Trust Agreement: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of $50,000 shall be transferred to the University of Louisville from the Council on Postsecondary Education in fiscal year 2002-2003 for the Quality and Charity Care Trust Agreement.

45. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

a. Postsecondary Workforce Training Program: Included in the General Fund appropriation to the Kentucky Community and Technical College System in Part I, Operating Budget, is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program. These funds shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College program offerings. Up to $2,100,000 of the Postsecondary Workforce Training Program each year of the biennium may be transferred to the Bluegrass State Skills Corporation within the Cabinet for Economic Development upon a determination by the State Budget Director that other sources of funds are insufficient to meet the employment retention and training needs of the Commonwealth as certified by the Secretary of the Economic Development Cabinet.

b. Land Proceeds: Notwithstanding KRS 45.777, proceeds in the amount of $225,600 for the sale of KCTCS property located at Lincoln Park, 1501 Bland Street, Louisville, Kentucky 40217 to the Jefferson County Public School System shall be retained by KCTCS for Jefferson Community College.

PUBLIC PROTECTION AND REGULATION

46. DEPARTMENT OF INSURANCE

a. Risk-based Capital: A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with risk-based capital (RBC) requirements as follows: (1) For purposes of this subsection, risk-based capital shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with 806 KAR 38:100; (2) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows: (a) "Company Action Level RBC" means the product of two and its Authorized Control Level RBC; (b) "Regulatory Action Level RBC" means the product of one and five-tenths and its Authorized Control Level RBC; (c) "Authorized Control Level RBC" means the product of four-tenths and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and (d) "Mandatory Control Level RBC" means the product of seven-tenths and the Authorized Control Level RBC; and (3) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this paragraph and 806 KAR 38:100 and shall not be eligible to calculate its risk-based capital according to this subsection.

47. PUBLIC ADVOCACY

a. Compensatory Leave Conversion to Sick Leave: In the event that the Department of Public Advocacy has determined that a budget shortfall may occur, the Public Advocate is authorized to institute a policy to suspend payment of 50 hours of compensatory leave and convert these hours to sick leave for those Attorneys who have accumulated 240 hours of compensatory time.

REVENUE CABINET

48. REVENUE

a. Sales Tax on Communications Services: Notwithstanding of KRS 139.505, all applicants filing on or after June 1, 2002, for the refundable credit for sales tax paid on communications services shall comply with the following: any business whose interstate communications services, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if the business's annual Kentucky gross receipts are equal to or more than $1,000,000, and the majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.

The refundable credit shall be equal only to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent of the business's Kentucky gross receipts.

To facilitate the administration of the refundable tax credit, the Revenue Cabinet shall grant eligible businesses which apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds of the tax paid on communications service shall not include any sales tax collected and paid by a communications service provider to the Cabinet.

b. Deduction for Taxes Paid to Foreign Countries: Notwithstanding KRS 141.010(11)(a), effective for taxable years beginning after December 31, 2001, the deduction for taxes paid to foreign countries is not allowable.

c. Natural Gas Distribution Services: Notwithstanding KRS 139.100, the furnishing of natural gas or electric distribution services or natural gas or electric transmission or transportation services shall be retail sales subject to sales and use tax except for the furnishing of those services to residential customers as defined in KRS 139.470(8).

TOURISM DEVELOPMENT CABINET

49. TAX CREDIT PROGRAM

a. Tax Credit Program: Notwithstanding KRS 148.855, the independent consulting firm shall consult with the Tourism Development Finance Authority, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the Authority, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify to the Authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

Notwithstanding KRS 148.859(1)(a), any increase in approved costs incurred by the approved company and agreed to by the Authority shall apply retroactively for purposes of calculating the carryforward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004. Notwithstanding KRS 148.859(1)(c), the term shall be ten years from the later of the date of final approval of the project or the original completion date specified in the agreement, if this completion date is within three years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement of the term and, notwithstanding KRS 148.859(1), upon request from an approved company that has completed at a minimum 50 percent of an entertainment destination center, the Authority shall grant an additional extension or change to that provided in KRS 148.859(1)(b), of up to three years, which in no event shall exceed six years from the date of final approval, to the completion date as specified in the agreement of the approved company, provided that:

(1) The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

(2) The term of the agreement shall not be extended; and

(3) The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

TRANSPORTATION CABINET

50. CABINETWIDE

a. Biennial Highway Construction Programs: The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2004-2005 through fiscal year 2007-2008 as identified by the 2002 General Assembly. This document shall mirror in data type and format the fiscal year 2002-2008 Recommended Six Year Highway Plan as submitted to the 2002 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2003 Regular Session of the General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2002-2004 Road Fund resources for a project designated as a State Project in the fiscal year 2004-2005 through fiscal year 2007-2008 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission of all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2), any project additions or modifications that the 2002 General Assembly may make to the fiscal year 2002-2008 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2002-2008 Recommended Six Year Road Plan as submitted by the Executive Branch.

51. AIR TRANSPORTATION

a. Bluegrass Field Airport: No appropriations to the Air Transportation Budget shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

b. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the 12-month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

52. PUBLIC TRANSPORTATION

a. Federal Transit Administration Match: Included in the fiscal year 2002-2003 Restricted Fund appropriation is $1,650,000 to match Federal Transit Administration discretionary capital grants to purchase buses and vans for public transit entities. To the extent that these Restricted Funds are not necessary to match additional Federal Funds for the Federal Transit Administration discretionary capital grants for buses and vans, the Restricted Funds shall revert to the Capital Construction and Equipment Purchase Contingency Account at the close of fiscal year 2003-2004.

b. Human Services Transportation Delivery Program: Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870, 281.872, 281.873, 281.874, 281.875, 281.876, 281.877, 281.878, and 281.879.

53. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional Federal Funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (1) Any demonstration-specific or project-specific money shall be used on the project identified; and (2) All other funds shall be used to insure that projects in the 2002-2004 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four Year Preconstruction Program.

d. Demonstration Projects: The Transportation Cabinet is authorized to select up to five design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Prefinancing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2002-2004 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided. The Transportation Cabinet shall maintain a minimum Road Fund cash management target of $100,000,000. The Secretary may seek approval to spend Road Fund moneys below $100,000,000 by submitting a recommended spending plan to the Secretary of Finance and Administration Cabinet for approval. A copy of the approved spending plan shall be transmitted to the Interim Joint Committee on Appropriations and Revenue.

f. Miscellaneous Road Fund Expenditures: A turning lane shall be constructed at KY 1958 and the New Retirement Center in Clark County. The cost related to the construction of the turning lane shall be funded from Road Fund resources.

Luminaries shall be installed at South Williamson to KY 308 in Pike County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of 55th Street and US 23 in Boyd County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of US 421 and US 62 in Woodford County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

Two flashing school zone lights shall be installed for Fairview High School. The cost related to the installation shall be funded from Road Fund resources. The cost to operate the lights shall be the responsibility of the Boyd County Fiscal Court.

Guardrails shall be installed at the following locations: KY 32 from the Rowan/Elliott County Line to the Junction of KY 32 and KY 7; KY 1620 between MP 2 and MP 4 in Elliott County; KY 1426 between MP 8.263 and MP 8.819 in Floyd County; KY 1231 between MP 2.6 and MP 4.6 in Knott County; KY 1697 between MP 1.7 and MP 3.7 in Knott County; KY 550 between MP 16.8 and MP 18.0 in Knott County; KY 582 between MP 7.9 and MP 10.3 in Knott County; and KY 3419 between MP 9.509 and MP 12.014 in Pike County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Directional signs to the Aviation Museum of Kentucky shall be installed on US 60 near the intersection of Man-of-War and US 60 in Fayette County. The cost related to the installation of the signs shall be funded from Road Fund resources.

The Transportation Cabinet shall resurface KY 181 from MP 5.8 to MP 10.5 in Muhlenburg County. The costs related to the resurfacing of KY 181 shall be funded from the maintenance account.

The Transportation Cabinet shall resurface KY 1002 from MP 0.638 to MP 1.1 in Wolfe County. The costs related to the resurfacing of KY 1002 shall be funded from the maintenance account.

The Transportation Cabinet shall establish KY 1336 as an access point to the relocated new KY 11 in the Community of Tilton.

Spot improvements shall be made at the intersection of KY 550 and KY 1103 in Knott County to increase site distance. The cost related to the spot improvements shall be funded from Road Fund resources.

Sight distance improvements shall be made from the intersection of KY 645 and KY 581 in Lawrence County extending 2,000 feet south along KY 581 towards Paintsville. The cost related to the sight distance improvement shall be funded from Road Fund resources.

The Transportation Cabinet shall amend the FB 2002-04 Biennial Highway Construction Plan to direct that the project description for Project Number 6-8100 in Bracken County be revised to read as follows: Planning Study for reconstruction of KY-10 from Brooksville to Germantown.

A stop light and turning lane shall be installed at US 31W at Dart Container World in Hart County. The cost related to the installation of the stop light and turning lane shall be funded from Road Fund resources.

Bloomington Road shall be resurfaced from MP 0.0 to MP 2.0 in Grayson County. The cost related to the resurfacing of the road shall be funded from Road Fund resources.

The Transportation Cabinet shall build and surface two and forty-five one hundredths miles of the Brammer Hill-Delta Road (County Road 1030) in Wayne County. The cost related to building and surfacing the road shall be funded from Road Fund resources.

The Transportation Cabinet shall repave one and six-tenths miles of the Paint Creek Road beginning at the juncture of KY 92 W and the Tacket Creek Road shall be repaved from the juncture of Sevoy Clear Creek Road South in Whitley County. The cost related to the repaving shall be funded from Road Fund resources.

Traffic lights shall be installed at the following locations: on US 60 at the Olive Hill Elementary School entrance east of Olive Hill in Carter County; South Dixie Fire Department on US 31W at Valley Station in Jefferson County; at the intersection of KY 490 and US 25 in Laurel County; at the intersection of KY 68 and Warehouse Drive in the City of Lebanon in Marion County; at the intersection of AA Highway and KY 57 in Mason County; and at the intersection of US 42 and Ridgemoor Drive in Oldham County. The cost related to the installation of the traffic lights shall be funded from the Road Fund resources.

Bridges shall be reconstructed at the following locations: Roaring Paunch Creek Bridge, off KY 1470 on Kingtown Road in McCreary County; Old Sano Road Bridge two miles north of KY 80 in Russell County; Dry Hollow Road Bridge (County Road 1213) in Wayne County; Verne Road Bridge near the junction of Verne Road with KY 1064 in Whitley County; and Keswick Road Bridge in Whitley County. The cost related to the reconstruction of the bridges shall be funded from Road Fund resources.

Guardrails shall be installed at the following locations: Green Briar Road beginning 2 miles east and ending eight miles east of KY 615 in Adair County; Milltown Road (KY 768) one and two-tenths miles north of KY 61 in Adair County; Elmore Hill Road one-tenth of a mile south of KY 70 in Casey County; Thomas Ridge Spur one-tenth of a mile east of KY 910 in Casey County; Patsy Riffe Ridge two-tenths of a mile east of KY 127 in Casey County; Dishman Springs Road in Barbourville from Helton Branch Road to Emanuel Road in Knox County; Parrot Hollow Road from MP 2.386 to MP 3.225 in Knox County; Artemus/Flat Lick Road from MP 1.1 to MP 1.336 in Knox County; on the left side of KY 1003 one mile east of KY 80 in Pulaski County; and on the left side of KY 1003 four miles east of KY 80 across Buck Creek Bridge in Pulaski County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Street signs shall be replaced throughout the City of Edgewood in Kenton County. The cost related to replacing the street signs shall be funded from Road Fund resources.

Road improvements shall be made along US 29 from the Railroad Bridge to Lexington Road in Jessamine County. The cost related to the road improvements shall be funded from Road Fund resources.

A sound barrier shall be installed on the north side of Watterson Expressway from the west side of the Newburg Interchange going 1,000 feet west.

A sound barrier shall be installed on I-64 for the St. Regis neighborhood. The cost related to the installation of the sound barrier shall be funded from Road Fund resources.

Luminaries shall be installed on KY 11 from the Main Street Intersection going north in Owsley County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A traffic study shall be conducted of the intersection of US 60 and Carroll Road in Clark County. The cost of the study shall be funded from Road Fund resources.

Signs designating the location of the St. John's School shall be installed on US 45 in McCracken County. The cost related to the installation of the signs shall be funded from Road Fund resources.

Provide Road Fund support for the installation of the Douglas Avenue Bridge over Bacon Creek in Whitley County.

g. Location of proposed I-66: The location of proposed I-66 in the South Central Kentucky Area shall be limited to alternative highway corridors extending from the Cumberland Parkway to the Natcher Parkway north of the City of Bowling Green.

h. Toll Road Facilities: If Federal Funds become available to the state to support toll roads, then all toll road facilities within the Commonwealth shall close and all toll road employees be reassigned within the Transportation Cabinet.

i. Demonstration Project: The Transportation Cabinet shall request a waiver from the Federal Highway Administration to establish a demonstration project that uses pigmented binder materials in the construction of school crosswalks in Hardin County.

54. VEHICLE REGULATION

a. Motorcycle Education Program: Notwithstanding KRS 186.890(1) and (2), all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. No administrative costs for other programs or budget units within the Transportation Cabinet shall be deducted from the Motorcycle Safety Education Program. The Transportation Cabinet shall report biennially to the Interim Joint Committee on Appropriations and Revenue of the revenues deposited to the Fund, the expenditures incurred, and available balances. In addition, the Cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees.

55. GENERAL ADMINISTRATION AND SUPPORT

a. Adopt-A-Highway Litter Program: The Transportation and Natural Resources and Environmental Protection Cabinets may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

b. Transportation Cabinet Office Building: The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

WORKFORCE DEVELOPMENT CABINET

56. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational

Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2002-2004 fiscal biennium.

57. DEPARTMENT FOR VOCATIONAL REHABILITATION

a. Personnel Cap: A personnel cap of 504 positions (484 full time, 19 part time, and one interim) is authorized.

58. DEPARTMENT FOR EMPLOYMENT SERVICES

a. Facility Replacement and Renovation Program: The General Assembly authorizes the Department to develop and implement a Facility Replacement and Renovation Program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties.

Proceeds from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Additionally, funds received from the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the purpose of acquiring property and constructing a building and such improvements, facilities, paving, landscaping, and fixed equipment as may be required for use by the Cabinet for Workforce Development. Expenditures authorized by this provision are limited to the use of funds derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and national government, and funds received from the Reed Act distribution.

b. Operating Costs and Mobile Vehicle: Additionally, Reed Act distribution may be used for continued operating costs at the Department for Employment Services facilities as well as for the acquisition and equipping of a mobile vehicle for use in providing timely on-site deployment of services to remote locations or to meet extraordinary service requirements subject to applicable statutory and regulatory requirements of the Commonwealth.

The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Any project estimated to cost over $400,000 and any mobile vehicle costing more than $100,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2002-2003 and 2003-2004. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance are appropriated to the Budget Reserve Trust Fund established in KRS 48.705.

2. The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of fiscal year 2002-2003, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for the Budget Reserve Trust Fund pursuant to the Plan in fiscal year 2003-2004.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2002, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for the Budget Reserve Trust Fund in fiscal year 2002-2003 pursuant to the Plan.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement

payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2002-2003 is $125,600,000 and in fiscal year 2003-2004 is $109,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. Early Childhood Development Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated for Early Childhood Development Initiatives as specified below.

b. Health Care Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

c. Agricultural Development Initiatives: Fifty percent of the MSA payments received in fiscal year 2002-2003, estimated to be $62,800,000, and in fiscal year 2003-2004, estimated to be $54,550,000, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

A. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Governor's Office of Agricultural Policy	47,688,000	39,434,000

From the allocation provided in KRS 248.703(2)(b)2., included in the above appropriation is up to $1,600,000 in fiscal year 2002-2003 and $1,600,000 in fiscal year 2003-2004 for the University of Kentucky Cooperative Extension Service to support the cost of providing a one-time bonus in each fiscal year for county extension agents in addition to any salary adjustments which may be made.

Counties that are allocated in excess of $20,000 annually, as provided by KRS 248.703(2)(b)1., may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

2. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
Debt Service	6,112,000	6,116,000

To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be transferred from those accounts to the appropriate account of the General Fund to fully fund the aggregate debt service obligation of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

3. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
Natural Resources	9,000,000	9,000,000

These funds are appropriated for the Environmental Stewardship Program within the Department for Natural Resources.

TOTAL AGRICULTURAL APPROPRIATIONS	62,800,000	54,550,000

B. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Governor's Office of Early Childhood Development	2,188,400	2,188,400

2. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2002-03	2003-04
Community Based Services	7,262,800	3,581,300

Included in the above appropriation is $7,023,300 in fiscal year 2002-2003 and $3,023,300 in fiscal year 2003-2004 for the Early Childhood Development Program, and $239,500 in fiscal year 2002-2003 and $558,000 in fiscal year 2003-2004 for Child Advocacy Centers. Phase I Tobacco Settlement funds totaling $4,000,000 in fiscal year 2002-2003 shall not be expended, but shall carry forward into fiscal year 2003-2004 to sustain operations of fully implemented child care programs. These represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

3. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	18,598,800	18,155,300

Included in the above appropriation is $11,948,800 in each fiscal year for the HANDS Program; $2,200,000 in fiscal year 2002-2003 and $2,010,300 in fiscal year 2003-2004 for Healthy Start initiatives; $2,000,000 in each fiscal year for Universal Children's Immunizations; $1,200,000 in fiscal year 2002-2003 and $946,200 in fiscal year 2003-2004 for the Folic Acid Program; $1,000,000 in each fiscal year for Early Childhood Mental Health; and $250,000 in fiscal year 2003-2004 for Early Childhood Oral Health. Also included in the above appropriation is $250,000 in fiscal year 2002-2003 to be transferred to the General Fund. Additionally, $543,500 in Phase I Tobacco Settlement funds is budgeted to continue from fiscal year 2001-2002 into fiscal year 2002-2003 and from fiscal year 2002-2003 into fiscal year 2003-2004 to sustain operations of the fully implemented Healthy Start ($289,700) and Folic Acid ($253,800) Programs. These amounts represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

Budget Unit	2002-03	2003-04
Mental Health and Mental Retardation	1,000,000	1,000,000
Children with Special Health Care Needs	1,600,000	1,600,000

Included in the above appropriation is $550,000 in each fiscal year for Universal Newborn Hearing Screening; $50,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

4. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Kentucky Higher Education Assistance Authority	750,000	750,000

Included in the above appropriation is $750,000 each fiscal year for Early Childhood Scholarships.

TOTAL EARLY CHILDHOOD APPROPRIATIONS	31,400,000	27,275,000

C. HEALTH CARE IMPROVEMENT APPROPRIATIONS
GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Kentucky Agency for Substance Abuse Policy	2,574,800	2,236,600

Notwithstanding KRS 12.330, included in the above appropriation is $844,100 in fiscal year 2002-2003 and $489,300 in fiscal year 2003-2004 which shall be transferred to the Endowment Fund. This Endowment Fund shall be created as a Restricted Funds account in the state accounting system. Included in the above appropriation is $225,000 each fiscal year to be transferred to the Department for Public Health for operating costs associated with the upgrade of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system. Included in the above appropriation is $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund.

2. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	3,140,000	2,727,500

These funds are appropriated for the Smoking Cessation Program within the Department for Public Health.

3. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Council on Postsecondary Education	6,280,000	5,455,000

These funds are appropriated for the Lung Cancer Research Program within the Council on Postsecondary Education.

4. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
Department of Insurance		
General Operations	19,405,200	16,855,900

These funds are appropriated for the Kentucky Access Program.

	2002-03	2003-04
TOTAL HEALTH CARE APPROPRIATIONS	31,400,000	27,275,000

	2002-03	2003-04
TOTAL PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	125,600,000	109,100,000

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2002-03	2003-04
General Fund - Tobacco	125,600,000	109,100,000
General Fund	6,907,565,700	7,149,743,100
Restricted Funds	3,594,662,900	3,657,947,500
Federal Funds	5,529,395,400	5,385,395,700
Road Fund	1,091,699,300	1,122,934,300
Subtotal	17,248,923,300	17,425,120, 600

CAPITAL PROJECTS BUDGET

	2002-03	2003-04
General Fund	100,000	400,000
Restricted Funds	706,551,216	250,986,441
Federal Funds	79,719,000	8,866,000
Bond Funds	309,837,000	
Road Fund	5,840,000	8,284,000
Agency Bonds	41,800,000	
Capital Construction Surplus	2,540,000	319,000
Investment Income	22,194,000	14,000,000
Deferred Maintenance	957,000	
Other Funds	105,918,000	2,700,000
Emergency Repair, Replacement and Maintenance	1,000,000	
Capital Construction Contingency	800,000	
Subtotal	1,277,256,216	285,555,441

TOTAL-STATE/EXECUTIVE BUDGET

	2002-03	2003-04
General Fund - Tobacco	125,600,000	109,100,000
General Fund	6,907,665,700	7,150,143,100
Restricted Funds	4,301,214,116	3,908,933,941
Federal Funds	5,609,114,400	5,394,261,700
Road Fund	1,097,539,300	1,131,218,300
Bond Funds	309,837,000	
Agency Bonds	41,800,000	
Capital Construction Surplus	2,540,000	319,000
Investment Income	22,194,000	14,000,000
Deferred Maintenance	957,000	

Other Funds	105,918,000	2,700,000
Emergency Repair, Replacement, and Maintenance	1,000,000	
Capital Construction Contingency	800,000	
TOTAL FUNDS	18,526,179,516	17,710,676,041

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

HB 294, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth and its various officers, boards, commissions, subdivisions, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2002-03	2003-04
General Fund	148,521,200	153,029,200
Restricted Funds	11,178,100	11,701,100
Federal Funds	2,956,200	1,223,800
Total	162,655,500	165,954,100

Funds are included to provide a two and seven-tenths percent salary adjustment in fiscal year 2002-2003 and in fiscal year 2003-2004 for nonelected court personnel. Included are funds to provide for a two and seven-tenths percent salary adjustment for justices and judges in fiscal year 2002-2003 and a two and seven-tenths percent salary adjustment for the justices and judges in fiscal year 2003-2004. Also included are funds for the salaries of the circuit clerks in fiscal year 2002-2003 and in fiscal year 2003-2004 as provided for in the Judicial Branch Budget Recommendation.

Notwithstanding KRS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

Included in the above appropriation is $125,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 to support the Kentucky Legal Education Opportunities (KLEO) Program. Participants may be required to meet certain grade point average (GPA) conditions.

b. Local Facilities Fund

	2002-03	2003-04
General Fund	49,346,300	57,845,300

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance remaining at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004.

c. Local Facilities Use Allowance Contingency Fund

	2002-03	2003-04
General Fund	0	0

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance remaining at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A. For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Total Court of Justice

	2002-03	2003-04
General Fund	197,867,500	210,874,500
Restricted Funds	11,178,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	212,001,800	223,799,400

2. Judicial Form Retirement System

	2002-03	2003-04
General Fund	2,500,600	2,519,400
Restricted Funds	145,000	
TOTAL	2,645,600	2,519,400

General Fund amounts are included to provide for the 2001 actuarial assessed needs of the Judicial Form Retirement System.

TOTAL - OPERATING BUDGET

	2002-03	2003-04
General Fund	200,368,100	213,393,900
Restricted Funds	11,323,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	214,647,400	226,318,800

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects
   a. Franklin County - Lease Office Space
   b. Franklin County - Lease Court of Appeals
   c. Jefferson County - Courts Parking Lease

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

TOTAL - JUDICIAL BRANCH BUDGET

	2002-03	2003-04
General Fund	200,368,100	213,393,900
Restricted Funds	11,323,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	214,647,400	226,318,800

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts, with the approval of the Chief Justice, may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections,

subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2003 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2002, and June 30, 2003, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to Restricted Funds and Federal Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2002-2004 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2003 Regular Session of the General Assembly.

9. Funding for the Commonwealth's family courts has been continued during fiscal year 2002-2003 and fiscal year 2003-2004.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HJR 82, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2002-2004 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2002-2004 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2002-2004 Judicial Branch Budget Bill or the 2002-2004 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 2002-2004 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2002-2004 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2003 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2002-2004 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

HJR 83, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2002-2004 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2002-2004 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2002-2004 State/Executive Branch Budget Bill or the 2002-2004 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 2002-2004 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2002-2004 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2003 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2002-2004 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Motions, Petitions, and Communications (Continued)

Representative Haydon moved the adoption of the following **HR 63**:

HR 63, A RESOLUTION honoring William H. Hintze Jr., Deputy State Budget Director.

WHEREAS, William H. Hintze Jr., "Bill," was named the 2002 recipient of the prestigious Gloria Timmer Award by the National Association of State Budget Officers (NASBO); and

WHEREAS, this award is the highest honor bestowed by NASBO and is given in recognition to individuals with outstanding career accomplishments that have had a significant impact on a state's financial administration; and

WHEREAS, Bill, an Iowa native, served in the U. S. Army from 1969-71; and

WHEREAS, Bill began his career with Kentucky state government and joined the staff of the Governor's Office for Policy and Management in 1973; and

WHEREAS, Bill became the Deputy State Budget Director in 1984 and continues in that position today, serving the Commonwealth with distinction for almost 30 years; and

WHEREAS, Bill has served as a member of the state's Capital Planning Advisory Board since its creation in 1990, and has worked closely with the statutory Capital Projects and Bond Oversight Committee and the standing Appropriations and Revenue Committees; and

WHEREAS, Bill, throughout his years of service in the Executive Branch, has worked directly with Kentucky General Assembly and its staff, earning respect and trust from all for his expertise and understanding of the state budget and related issues;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Bill Hintze, Deputy State Budget Director, is hereby recognized for his many years of service to the Commonwealth and his dedication to the development of the Commonwealth's budgetary process.

Section 2. Bill Hintze is thanked for his dedication and long hours of public service.

Section 3. When the House of Representatives adjourns this day, it does so in honor of William H. Hintze Jr.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this resolution to Bill Hintze Jr., 252 Taylor Drive, Lexington, KY, 40511.

There being no objection, HR **63** was adopted.

Representative J. Arnold

moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **HB 54**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 49, 88**(vote recorded prior to bill being reported out of committee)**, 78, 157, 168,** and **181**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 77**, by Representative Vincent:

HB 77, On page 5, beginning on page 25, and continuing through page 6, line 8, by deleting all new text; and

On page 6, line 15, by deleting "***(i)***" and removing the brackets and strikethroughs from "~~[(h)]~~"; and

On page 6, line 16, by deleting "***(j)***" and removing the brackets and strikethroughs from "~~[(i)]~~"; and

On page 6, line 19, by deleting "***(k)***" and removing the brackets and strikethroughs from "~~[(j)]~~"; and

On page 6, line 22, by deleting "***(l)***" and removing the brackets and strikethroughs from "~~[(k)]~~"; and

On page 6, line 24, by deleting "***(m)***" and removing the brackets and strikethroughs from "~~[(l)]~~".

Floor Amendment No. 2 to the Committee Substitute to **HB 77**, by Representative Lindsay:

HB 77, On page 5, lines 25 to 27, to delete the same; and

On page 6, lines 1 to 7, to delete the same; and

On page 6, line 8, to delete "***(h)***"; and

On page 6, line 15, to delete "***(i)***" and all bracketing and strike through; and

On page 6, line 16, to delete "***(j)***" and all bracketing and strike through; and

On page 6, line 19, to delete "***(k)***" and all bracketing and strike through; and

On page 6, line 22, to delete "***(l)***" and all bracketing and strike through; and

On page 6, line 24, to delete "***(m)***" and all bracketing and strike through.

Floor Amendment No. 3 to the Committee Substitute to **HB 77**, by Representative Rasche:

HB 77, On pages 5 and 6, beginning on line 25 on page 5, after "(g)" by deleting all new language through the end of line 7 on page 6;

On page 6, line 8 by deleting "***h***";

On page 6, lines 15, 16, 19, 22, and 24, by deleting new letters and removing the brackets and strikethroughs to restore the original letters; and

On page 8, after line 12, by inserting the following:

Section 4. KRS 158.6453 is amended to read as follows:

(1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

(2) The assessment program shall include the following components:

(a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;

(b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;

(c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;

(d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and

(e) A technically sound longitudinal comparison of the assessment results for the same students.

(3) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:

(a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;

(b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and

(c) Minimize the time spent by teachers and students on assessment.

(4) Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.

(5) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

(6) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.

(7) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:

(a) Student academic achievement, including the results from each of the assessments administered under this section;

(b) Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life. ***The school report card for elementary schools shall also include the percentage of students who meet the President's Physical Fitness Award criteria***; and

(c) School learning environment, including measures of parental involvement.

Floor Amendment No. 1 to **HB 88**, by Representative Wayne:

HB 88, On line 4, page 1 after "***housing***" by inserting "***for students***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 58, Representative Marzian

HB 147, Representative Damron

HB 148, Representative Damron

HB 163, Representative Wayne

HB 180, Representative Westrom

HB 196, Representatives Meeks and J. Thompson

HB 251, Representative Callahan

HB 265, Representative Crenshaw

HB 281, Representative P. Clark

HB 349, Representative Yonts

HB 385, Representative S. Lee

HB 391, Representatives A. Arnold and Richards

HB 399, Representative Baugh

HJR 116, Representatives Baugh, Couch, Embry, Harper, Harmon, S. Lee, Montell, Riner, and Upchurch.

Announcements

The following meetings were announced:

Appropriations and Revenue Committee: upon Recess, Speaker's Office

Natural Resources and Environment Committee: Tuesday, February 11, 2003, 8:30 a.m., Room 131

Labor and Industry Committee: Tuesday, February 11, 2003, Noon

Appropriations and Revenue Committee: Tuesday, February 11, 2003, 10:30 a.m.

Majority Caucus: Tuesday, February 11, 2003, upon Adjournment, Room 149

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Tuesday, February 11, 2003.

The motion that the House adjourn until 2 p.m., Tuesday, February 11, 2003, was adopted by voice vote.

TUESDAY, FEBRUARY 11, 2003

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Michael Rice, Trinity United Methodist Church, Maysville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

At the request of the Speaker, Britini Tincher sang the National Anthem.

The roll was called. All members present except Representative Coleman.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Monday, February 10, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Edmonds moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Edmonds moved the adoption of the following **Legislative Citation No. 15**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to Britini Tincher as she visits the chambers of the House of Representatives to open this day of the 2003 Regular Session of the Kentucky General Assembly by singing the National Anthem. Inasmuch as Britini Tincher has demonstrated tremendous charm and grace by her presence on this memorable occasion, the members of this august body are delighted to join Representative Ted Edmonds in applauding this remarkable young lady for her splendid performance and in extending to her best wishes for continuing success and good fortune. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and three.

Legislative Citation No. 15 was adopted without objection.

Representative Buckingham moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Buckingham moved the adoption of the following **Legislative Citation No. 20**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the esteemed participants of Leadership Tomorrow, an outstanding program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as Leadership Tomorrow is a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Robert "Buddy" Buckingham in commending this exemplary program for its noteworthy efforts and in extending best wishes for its continued success. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and three.

Legislative Citation No. 20 was adopted without objection.

Representative Adkins moved that the rules be suspended and to act upon a Legislative Citation. Agreed.

Representative Adkins moved the adoption of the following **Legislative Citation No. 21**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of Youth Leadership Boyd and Greenup Counties and welcomes these distinguished individuals to the chambers of the Kentucky House of Representatives during this day of the Regular Session of the 2003 General Assembly. Inasmuch as members in this outstanding program are provided with an opportunity to learn about community development, to provide a forum for networking, to build a strong foundation for leadership and to foster community service, the members of this august body are delighted to join with Representative Rocky Adkins, Representative Tanya Pullin and Representative John Vincent in applauding the members of Youth Leadership Boyd and Greenup Counties for taking part in this worthy endeavor, in commending them for participating in this invaluable leadership program, and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and three.

Legislative Citation No. 21 was adopted without objection.

Introduction of Bills and Resolutions

HB 434, by Representatives Stacy and Hall: AN ACT relating to crimes and punishments.

HB 435, by Representative Thomas: AN ACT relating to animals.

HB 436, by Representative Adkins: AN ACT relating to county law libraries.

HB 437, by Representatives Miller, Siler, Walton, P. Clark, Horlander, Jenkins, Graham, Hoffman, and L. Clark: AN ACT relating to Kentucky Teachers' Retirement System.

HB 438, by Representatives Jenkins, Feeley, Miller, Crimm, Meeks, Bratcher, Brinkman, De. Butler, Vincent, Webb, Callahan, DeWeese, Adkins, Westrom, L. Clark, P. Clark, Horlander, Stacy, Burch, J. Adams, Bather, Draud, Riggs, Riner, and Stein: AN ACT relating to the Enterprise Zone Program.

HB 439, by Representatives Hoffman and McKee: AN ACT relating to the state lottery.

HB 440, by Representative Bather: AN ACT relating to law enforcement agencies.

HB 441, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 442, by Representative Wilkey: AN ACT relating to the collection of debts by the Revenue Cabinet.

HB 443, by Representative J. Lee: AN ACT relating to health maintenance organizations.

HB 444, by Representative J. Lee: AN ACT relating to taxation and declaring an emergency.

HB 445, by Representatives Marzian, Stein, and Burch: AN ACT relating to Medicaid.

HB 446, by Representative Callahan: AN ACT relating to property taxes.

HB 447, by Representative Jenkins: AN ACT relating to income taxes.

HB 448, by Representative Jenkins: AN ACT relating to relating to crimes and punishments.

HR 123, by Representative Comer: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Finis Durrett.

HR 124, by Representative Hoover: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Raymond Graham "Ray" Mullinix.

HCR 125, by Representative Pullin: A CONCURRENT RESOLUTION directing the Transportation Committee to study safety issues involving remote controlled trains.

HCR 126, by Representative Embry: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study compulsive gambling in Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 421, 423**

Appropriations and Revenue: **HB 422**

Banking and Insurance: **HB 393, 399, 400**

Economic Development: **HB 409**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 426**

Health and Welfare: **HB 405, 410**

Judiciary: **HB 394, 395, 396, 404, 411, 416, 420, 429**

Labor and Industry: **HB 397, 398, 402, 417**

Licensing and Occupations: **HB 415, 419, 428**

Local Government: **HB 403, 406, 408, 414, 425, 427, HCR 122**

Natural Resources and Environment: **HB 401**

State Government: **HB 392, 412, 418, 430, 431, 432, 433, HCR 119**

Tourism Development and Energy: **HCR 121**

Transportation: **HB 407, 413, 424**

House Floor: **HR 118, 120**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HJR 116**

Health and Welfare: **HB 126, 127, 137, 147, 173, 272, HCR 22, HB 355, 291, 308, 328**

Seniors, Military Affairs, and Public Safety: **HB 303**

State Government: **HB 314, 337, 364**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 35** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 35, AN ACT relating to permitting solid waste sites or facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 40 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Before an owner or operator of a transfer facility for solid waste may accept waste, the owner or operator shall register with the cabinet as directed by administrative regulations of the cabinet. The registration shall be effective thirty (30) days after receipt by the cabinet unless the cabinet denies the registration within the thirty (30) days. An effective registration shall authorize the owner or operator to accept solid waste under a registered permit-by-rule. The cabinet shall deny the registration if the transfer facility for solid waste does not comply with applicable local ordinances or if the registration fails to comply with other requirements of statutes or administrative regulations administered by the cabinet.

(2) When an owner or operator of a transfer facility for solid waste registers with the cabinet, the owner or operator shall certify to the cabinet that:

(a) A copy of the registration has been provided to the governing body of the solid waste management area where the transfer station is to be located; and

(b) The transfer station complies with all local ordinances.

(3) If within the thirty (30) day period of cabinet review new or amended local ordinances become effective, the owner or operator shall immediately notify the cabinet of the changed local ordinances. Upon receipt of the notice, the cabinet shall suspend the registration until the owner or operator certifies to the cabinet that the transfer station complies with the new or amended local ordinances. Upon receipt of the certification and if all other requirements for the registered permit-by-rule have been met, the registration shall become effective.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 237, HB 242,** with Committee Substitute attached thereto, **HB 295, HB 309,** and **HB 334** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 237, AN ACT relating to public safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 383.010 TO 383.285 IS CREATED TO READ AS FOLLOWS:

Any public or private institution of postsecondary education which operates or acts as agent for an on-campus housing facility within the Commonwealth shall disclose to any potential lessee as to whether the on-campus housing facility is or is not equipped with an automatic fire suppression system. A two (2) part written disclosure statement, separate from other rental documents with typeface of no less than fourteen (14) points, shall be signed by both parties acknowledging that disclosure of the presence or lack of an automatic fire suppression system has been made. The potential lessee shall be given a copy and a copy shall be retained by the lessor for the duration of the rental agreement.

HB 242, AN ACT relating to the protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.005 is amended to read as follows:

(1) *The Kentucky Commission on Elder Abuse is created and shall consist of the following members:*

(a) The secretary of the Cabinet for Families and Children, or a designee;

(b) The secretary of the Cabinet for Health Services, or a designee;

(c) The commissioner of the Department for Community Based Services, Cabinet for Families and Children, or a designee;

(d) The director of the Division of Protection and Permanency, Cabinet for Families and Children, or a designee;

(e) The executive director of the Office of the Ombudsman, Cabinet for Families and Children, or a designee;

(f) The executive director of the Office of Aging Services, Cabinet for Health Services, or a designee;

(g) The Inspector General, Cabinet for Health Services, or a designee;

(h) The commissioner of the Department for Medicaid Services, Cabinet for Health Services, or a designee;

(i) The commissioner of the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, or a designee;

(j) The long-term care ombudsman, Office of Aging Services, Cabinet for Health Services, or a designee;

(k) The commissioner of the Department for Public Health, Cabinet for Health Services, or a designee;

(l) The director of the Area Agencies on Aging, Department for Local Government, Office of the Governor, or a designee;

(m) One (1) employee of the Office of the Attorney General who shall be appointed by the Attorney General;

(n) The commissioner of the Department of Insurance, Public Protection and Regulation Cabinet, or a designee;

(o) The director of the Division of Public Advocacy, Department of Public Advocacy, Public Protection and Regulation Cabinet, or a designee;

(p) One (1) employee of the Cabinet for Workforce Development who shall be appointed by the cabinet secretary;

(q) One (1) representative from the Sanders-Brown Center on Aging at the University of Kentucky who shall be appointed by the Governor;

(r) One (1) representative from the University of Louisville who shall be appointed by the Governor;

(s) Six (6) citizen members who shall be appointed by the Governor from a list of nominees submitted by the secretary of the Cabinet for Families and Children;

(t) Two (2) members of the Senate who shall be appointed by the President of the Senate;

(u) Two (2) members of the House of Representatives who shall be appointed by the Speaker of the House; and

(v) One (1) law enforcement officer who is a detective with experience in conducting elder abuse investigations who shall be appointed by the secretary of the Justice Cabinet.

(2) The Governor shall appoint the initial chair and vice chair from the members of the commission, and the chair and vice chair shall serve in that capacity for a term of two (2) years. Thereafter, the commission shall annually elect the chair and vice chair from its membership.

(3) A majority of the voting members shall constitute a quorum for the transaction of any business, and special meetings shall be called in accordance with KRS 61.823.

(4) Meetings of the commission shall be open and accessible to the public in accordance with KRS 61.805 to 61.850[~~The Cabinet for Families and Children shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various state agency representatives from the following list:~~

~~(a) The Department for Community Based Services;~~

~~(b) The Department for Public Health;~~

~~(c) The Department for Mental Health and Mental Retardation;~~

~~(d) The Office of Aging Services;~~

~~(e) The Division of Long Term Care;~~

~~(f) The Office of the Ombudsman; and~~

~~(g) Area Agencies on Aging.~~

~~(2) The committee shall address issues of prevention, intervention, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:~~

~~(a) Senior citizen centers;~~

~~(b) Local governmental human service groups;~~

~~(c) The Sanders-Brown Center on Aging at the University of Kentucky;~~

~~(d) Long Term Care Ombudsmen; and~~

~~(e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.~~

~~(3) The committee shall:~~

~~(a) Explore the need for a comprehensive statewide resource directory of services for the elderly;~~

~~(b) Enhance existing public awareness campaigns for elder abuse and neglect; and~~

~~(c) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.~~

~~(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Elder Abuse shall:

(a) Adopt by-laws for the regular operation of the commission;

(b) Develop a work plan to include the following:

1. Coordination of constituent calls to and contact with state programs;

2. Provision of public awareness resources on elder maltreatment; and

3. Coordination of media campaigns on elder maltreatment;

(c) Act as liaison for the Office of the Governor, the members of the General Assembly, and the public;

(d) Develop a state coordinating council on elder maltreatment to facilitate the development of local coordinating councils in accordance with model protocols;

(e) Identify and keep an up-to-date list of local community partners that address elder abuse issues;

(f) Distribute and update model protocols on elder maltreatment and services to appropriate agencies;

(g) Make recommendations for training and education on specified elder issues;

(h) Recommend model curriculum and trainer requirements for elder maltreatment education;

(i) Make recommendations on grant applications and funding sources for special projects;

(j) Serve as a repository of information on statewide elder issues;

(k) Make recommendations for pilot projects;

(l) Make recommendations on the system for data collection, measurements, and reporting of elder abuse cases; and

(m) Perform other duties relevant to the issue of elder abuse.

(2) The commission shall submit a report by September 30 of each year on activities, projects, and recommendations for public policy to the General Assembly, the Governor, the secretary of the Cabinet for Families and Children, the secretary of the Cabinet for Health Services, the Attorney General, and the secretary of the Public Protection and Regulation Cabinet. Public policy recommendations may be made regarding changes in state programs, legislation, administrative regulations, policies, treatments, and services and supports that may facilitate effective coordination, prevention, and intervention of elder abuse cases, the investigation, prosecution, and treatment of perpetrators of elder abuse, and the access of victims to services and supports.

(3) Members of the commission shall be eligible to receive actual and reasonable travel expenses.

(4) The Cabinet for Families and Children shall provide the necessary staff to assist the commission in carrying out its duties and responsibilities. State agencies having representation on the commission shall assist, within their budgetary limits, the cabinet and the commission in effectuating the duties and responsibilities of the commission.

Section 3. KRS 209.010 is amended to read as follows:

(1) The purpose of this chapter is:

(a)[~~(1)~~] To provide for the protection of *vulnerable* adults who may be suffering from abuse, neglect, or exploitation *and who request or do not refuse protective services*, and to bring said cases under the purview of the Circuit or District Court.

(b)[~~(2)~~] To provide *a mechanism to report abuse, neglect, or exploitation of a vulnerable adult*[~~that any person who becomes aware of such cases shall report them to a representative of the Cabinet~~], thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation.

(2) The General Assembly finds and declares as follows:

(a) Some adults are unable to manage their own affairs or to protect themselves from abuse, neglect, or

exploitation and these persons often cannot find others who are able or willing to render assistance;

(b) This chapter creates a system of protective services in which the resources of the Commonwealth are coordinated to fill this need and to assure the availability of services to all vulnerable adults;

(c) Implementing agencies shall utilize the fewest possible restrictions on the exercise of personal and civil rights, consistent with the person's need for services, to ensure that any protective placement is necessary and is in the most integrated setting appropriate to the individual's treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state; and

(d) Due process shall be followed when imposing any restrictions on the vulnerable adult's exercise of personal and civil rights.

Section 4. KRS 209.020 is amended to read as follows:

As used in this chapter *and Section 17 of this Act*, unless the context otherwise requires:

(1) *"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including sexual injury or mental anguish of a vulnerable adult;*

(2) "Access to records" means that any representative of an authorized agency shall be allowed access, subject to other applicable law, to the medical, mental health, and financial records of the vulnerable adult that are in the possession of any individual, hospital, firm, financial institution, corporation, or other facility, if necessary to perform the authorized agency's duties as required by law;

(3) "Authorized agency" means:

(a) The Cabinet for Families and Children;

(b) A local law enforcement agency or the Kentucky State Police;

(c) The Medicaid Fraud and Abuse Control Unit, Office of the Attorney General, if a report relates to its duties as set forth in 42 U.S.C. 1396b(q);

(d) The Office of Inspector General, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a facility or agency licensed by the Cabinet for Health Services;

(e) The Office of the Long Term Care Ombudsman, Cabinet for Health Services, if a report relates to its duties as defined in 42 U.S.C. 3058g;

(f) The Office of Aging Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a certified assisted living facility;

(g) The Department for Public Health, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a registered boarding home;

(h) The Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a certified Supports for Community Living Program;

(i) The Kentucky Board of Nursing, if a report relates to abuse, neglect, or exploitation of a vulnerable adult by a licensed nurse or nurse aide; or

(j) Any other agency that is responsible for regulating an individual, facility, or program that is licensed, certified, registered, or otherwise regulated;

(4) "Caretaker" means an individual or institution who has the responsibility for the care of the vulnerable adult as a result of family relationship, or who has assumed the responsibility for the care of the vulnerable adult voluntarily, or by contract, employment, assignment, legal duty, or agreement;

(5) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;

(6) "Emergency" means that a vulnerable adult is living in conditions that present a substantial risk of death or immediate and serious physical or mental harm to himself or others;

(7) "Emergency protective services" are protective services furnished to a vulnerable adult in an emergency;

(8) "Exploitation" means causing or requiring a vulnerable adult to engage in activity that is against the reasonable and rational wishes of the adult, or the deliberate misplacement, wrongful, improper, illegal, or unauthorized use of funds, assets, or property;

(9) "Investigation" means the review of a report made under subsection (2) or (3) of Section 6 of this Act and any follow-up determination of whether an alleged victim is a vulnerable adult. The term may include the interview of the individual who has been reported as having been abused, neglected, or exploited, and of any other persons who may possess information relevant to the individual's condition or situation, including a coroner or doctor if the abuse or neglect is allegedly the cause of death;

(10) "Neglect" means:

(a) Failure by a caretaker or a spouse to provide goods and services necessary to avoid physical harm, mental

anguish, or mental illness; or

(b) A situation in which a vulnerable adult is unable to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare;

(11) "Protective placement" means the transfer of a vulnerable adult from his present living arrangement to another;

(12) "Protective services" means services that are undertaken with or on behalf of a vulnerable adult who either does not refuse the services or has requested them. These services may include but are not limited to investigating complaints of possible abuse, neglect, or exploitation to ascertain whether the situation and condition of the vulnerable adult warrants further action; providing social services aimed at preventing and remedying abuse, neglect, and exploitation; assisting in the relocation of a vulnerable adult who is in need of protective services to protect him from abuse, neglect, or exploitation; obtaining legal redress, including but not limited to injunctive relief, on behalf of a vulnerable adult to protect him from abuse, neglect, or exploitation; or sharing information gathered from an investigation with a local law enforcement agency, the Kentucky State Police, or any other authorized agency; and

(13) "Vulnerable adult" means:

(a) A person eighteen (18) years of age or older, who because of mental or physical impairment is unable, without assistance from others, to manage his own resources, perform activities of daily living, or protect himself from abuse, neglect, or exploitation, and who is in need of protective services; or

(b) A person without regard to age who is the victim of abuse or neglect inflicted by a spouse[~~"Secretary" means the secretary of the Cabinet for Families and Children;~~

~~(2) "Cabinet" means the Cabinet for Families and Children;~~

~~(3) "Department" means the Department for Community Based Services of the Cabinet for Families and Children;~~

~~(4) "Adult" means:~~

~~(a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or~~

~~(b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;~~

~~(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;~~

~~(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;~~

~~(7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;~~

~~(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;~~

~~(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;~~

~~(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;~~

~~(11) "Emergency protective services" are protective services furnished an adult in an emergency;~~

~~(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;~~

~~(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;~~

~~(14) "Access to records" means that any representative of the Cabinet for Families and Children actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and~~

~~(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare~~].

SECTION 5. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The secretary of the Cabinet for Families and Children may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may take necessary action and may offer or cause to be

offered protective services for safeguarding the welfare of a vulnerable adult who has experienced abuse, neglect, or exploitation. Nothing in this chapter shall restrict the authority of another authorized agency to take action pursuant to its statutory authority.

Section 6. KRS 209.030 is amended to read as follows:

(1)[~~The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.~~

~~(2)~~] Any person, including[~~,~~] but not limited to ***a***[~~,~~] physician, law enforcement officer, nurse, social worker,[~~ cabinet~~] personnel ***of the Cabinet for Families and Children and the Cabinet for Health Services***, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall ***immediately*** report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(2) ***(a)***[~~(3)~~] ***Any person who knows or has reasonable cause to believe that a vulnerable adult is abused, neglected, or exploited shall immediately cause*** an oral or written report ***to***[~~shall~~] be made***, by telephone or otherwise,*** [~~immediately~~]to the ***Cabinet for Families and Children***[~~cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult~~].

(b) Any person making[~~ such~~] a report ***under paragraph (a) of this subsection*** shall provide the following information, if known:

1. The name and address of the ***vulnerable*** adult, or of any other person responsible for his care;

2. The age of the ***vulnerable*** adult;

3. The nature and extent of the abuse, neglect, or exploitation, including ***but not limited to*** any evidence of previous abuse, neglect, or exploitation;

4. The identity of the perpetrator, if known;

5. The identity of the complainant, if possible; and

6. Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(3)[~~(4)~~] Upon receipt of the report, the Cabinet ***for Families and Children*** shall take the following action as soon as ***practicable***[~~practical~~]:

(a) Notify the appropriate ***local*** law enforcement agency ***or the Kentucky State Police***;

(b) ***Notify each appropriate authorized agency or any other appropriate entity that has a legitimate interest in the report;***

(c) Initiate an investigation of the complaint; and

(d)[~~(c)~~]Make a written report of the initial findings together with a recommendation for further action, if indicated.

(4)[~~(5)~~] ***Upon request, any agency, institution, or facility providing services to adults shall cooperate, assist, and provide information that will enable an authorized agency to fulfill its responsibilities under this chapter.***

(5) Any representative of ***an authorized agency***[~~the cabinet~~] may enter any health facility or health service licensed by the Cabinet ***for Health Services*** at any reasonable time to carry out ***its***[~~the cabinet's~~] responsibilities under this chapter. Any representative of ***an authorized investigative agency***[~~the cabinet~~] actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the ***financial,*** mental ***health,*** and physical health records of the ***vulnerable*** adult ***that***[~~which~~] are in the possession of any individual, ***financial institution,*** hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of ***an authorized agency***[~~the cabinet~~] may***,*** with consent of the ***vulnerable*** adult or caretaker***,*** enter any private premises where ***a vulnerable***[~~any~~] adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the ***vulnerable*** adult or caretaker does not consent to the investigation, a search warrant may ***be issued***[~~issue~~] upon a showing of probable cause that ***a vulnerable***[~~an~~] adult is being abused, neglected, or exploited, to enable a representative of ***an authorized agency***[~~the cabinet~~] to proceed with the investigation.

(7) If ***the investigation indicates***[~~a determination has been made~~] that protective services are necessary[~~ when indicated by the investigation~~], the Cabinet ***for Families and Children*** shall provide such services within budgetary limitations, except in such cases where ***a vulnerable***[~~an~~] adult chooses to refuse such services.

(8) ***If***[~~In the event~~] the ***vulnerable*** adult ***chooses***[~~elects~~] to accept the protective services to be provided by the Cabinet ***for Families and Children***, the caretaker shall not interfere with the ***cabinet's delivery of***[~~cabinet when rendering~~] such services.

Section 7. KRS 209.040 is amended to read as follows:

Any court may*,* upon proper application by *an authorized agency or a private citizen,*[~~the cabinet~~] issue a restraining order or other injunctive relief to prohibit any violation of this chapter, regardless of the existence of any other remedy at law.

Section 8. KRS 209.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of any report or investigation or participating in the filing of a petition to obtain injunctive relief or emergency protective services for *a vulnerable*[~~an~~] adult pursuant to this chapter, including representatives of *an authorized agency*[~~the cabinet~~] in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant either to the consent of the *vulnerable* adult or to court order.

(2) Nothing in this chapter shall be construed to impose civil liability on a volunteer who makes a good faith effort for which the volunteer is not compensated or does not expect compensation to assist a vulnerable adult, including but not limited to assistance in the management of funds, assets, or property of the vulnerable adult or the provision of services, if the effort fails or a vulnerable adult is harmed in any way through no fault of the person.

Section 9. KRS 209.060 is amended to read as follows:

Only the attorney-client[~~Neither the psychiatrist patient privilege nor the husband-wife~~] privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of *a vulnerable*[~~an~~] adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to define the role of each authorized agency that provides services to vulnerable adults.

(2) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, the Cabinet for Families and Children shall:

(a) Notify the appropriate local law enforcement agency or the Kentucky State Police;

(b) Notify the Commonwealth's attorney or county attorney;

(c) Notify each additional authorized agency or entity that has a legitimate interest in the allegation;

(d) Investigate the allegation and determine whether the vulnerable adult was abused, neglected, or exploited;

(e) Report the cabinet's investigative findings to the appropriate local law enforcement agency or Kentucky State Police, Commonwealth's attorney or county attorney, and each additional authorized agency or entity that has a legitimate interest in the allegation; and

(f) Offer protective services to each victim of abuse, neglect, or exploitation.

(3) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, or upon notification from the Cabinet for Families and Children that a vulnerable adult has been identified as a victim of abuse, neglect, or exploitation, the local law enforcement agency or the Kentucky State Police shall conduct a criminal investigation, identify any person or persons suspected of abuse, neglect, or exploitation, and file charges as appropriate. The Commonwealth's attorney or county attorney shall prosecute, in his discretion, each case in which a local law enforcement agency or the Kentucky State Police has identified a suspect of abuse, neglect, or exploitation.

(4) For allegations of fraud or abuse of the Kentucky Medical Assistance Program, the Medicaid Fraud and Abuse Control Unit, Office of Attorney General, shall:

(a) Conduct a criminal investigation;

(b) Prosecute, in its discretion, each case of fraud or abuse of the Kentucky Medical Assistance Program.

(5) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a licensed health care facility to the Division of Long Term Care, Office of Inspector General, Cabinet for Health Services, which shall determine whether the facility complied with regulatory requirements.

(6) Upon notification that the Cabinet for Families and Children has substantiated that abuse, neglect, or exploitation of a resident occurred in a suspected unlicensed or illegal health facility as defined in KRS 216B.015(12), the Office of Inspector General, Cabinet for Health Services shall determine whether the facility operated illegally or without a license and, if so, take all necessary steps to cease illegal operation.

(7) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a Supports for Community Living facility to the Division of Mental Retardation, Department for Mental Health and Mental Retardation, Cabinet for Health Services, which shall determine whether the facility complied with regulatory requirements and whether the adult was abused, neglected, or exploited.

(8) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a certified or registered facility or program to the agency that has regulatory authority over the facility or program, which shall determine whether the facility or program complied with regulatory requirements and take such action as may be authorized by law.

(9) Upon notification from the Cabinet for Families and Children that a licensed, registered, or certified professional staff person had access to a victim during the time that abuse, neglect, or exploitation of an adult occurred, the agency responsible for licensing, registering, or certifying the individual shall take such action as may be authorized by law.

(10) Upon receipt of an allegation of abuse, neglect, or exploitation, the Long Term Care Ombudsman shall act in accordance with the requirements set forth in 42 U.S.C. sec. 3058g(a)(3) and the Federal Older Americans Act.

Section 11. KRS 209.100 is amended to read as follows:

(1) If ***a vulnerable***[~~an~~] adult lacks the capacity to consent ***or refuse*** to receive protective services in an emergency, ***protective***[~~these~~] services may be ordered by a court on an emergency basis through an order pursuant to KRS 209.110, provided that:

- (a) The ***vulnerable*** adult is in a state of abuse***,***[~~ or~~] neglect***, or exploitation*** and an emergency exists;
- (b) The ***vulnerable*** adult is in need of protective services; ***and***
- (c)[~~ The vulnerable adult lacks the capacity to consent and refuses to consent to such services; and~~
- ~~(d)~~] No person authorized by law or court order to give consent for the ***vulnerable*** adult is available to consent to emergency protective services or such person refuses to give consent.

(2) In ordering emergency protective services, the court shall authorize only that intervention ***that***[~~which~~] it finds to be the least restrictive of the individual's liberty and rights while consistent with his welfare and safety. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state.***

Section 12. KRS 209.110 is amended to read as follows:

(1) A petition by the Cabinet ***for Families and Children*** for emergency protective services shall be verified by an authorized representative of the cabinet and shall set forth the name, age, and address of the ***vulnerable*** adult in need of protective services; the nature of the disability of the ***vulnerable*** adult, if determinable; the proposed protective services; the petitioner's reasonable belief, together with the facts supportive thereof, as to the existence of the facts, and the facts showing the petitioner's attempts to obtain the ***vulnerable*** adult's consent to the services and the outcomes of such attempts. The petition and all subsequent court documents shall be entitled: "In the interest of----- , ***a vulnerable***[~~an~~] adult in need of protective services." The petition shall be filed in the court of the ***vulnerable*** adult's residence, or if filed pursuant to KRS 209.130, the court of the county in which the ***vulnerable*** adult is physically located.

(2) When a petition for emergency protective services is filed, the court or the clerk shall immediately appoint a guardian ad litem to represent the interest of the ***vulnerable*** adult. The duties of a guardian ad litem representing ***a vulnerable***[~~an~~] adult for whom a petition for emergency protective services has been filed shall include personally interviewing the ***vulnerable*** adult, counseling with the ***vulnerable*** adult with respect to this chapter, informing him of his rights and providing competent representation at all proceedings, and such other duties as the court may order.

(3) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the ***vulnerable*** adult and his guardian or, if none, his caretaker. Should the ***vulnerable*** adult have no guardian or caretaker, service shall be made upon the ***vulnerable*** adult's guardian ad litem. Notice of the hearing shall be given to the ***vulnerable*** adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be ***impracticable***[~~impractical~~]. Service ***for the vulnerable adult shall not be made upon any person who is believed to have perpetrated the abuse, neglect, or exploitation. Service*** of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

(4) The hearing on the petition for an emergency order for protective services shall be heard under the following conditions:

- (a) The hearing on the petition, in the interests of expedition, may be held in any county within the judicial district or circuit served by the court. The court shall give priority to the holdings of the hearings pursuant to petitions filed under this chapter;
- (b) The ***vulnerable*** adult or his representative may present evidence and cross-examine witnesses; and
- (c) The ***vulnerable*** adult or his representative may petition the court to have any order which is entered pursuant to this chapter[~~,~~] set aside or modified for good cause.

(5) Where protective services are rendered on the basis of an order pursuant to this section, the cabinet shall submit a report to the court describing the circumstances including the name, place, date, and nature of the services. Such report shall be made at least once or on a monthly basis if protective services are provided the ***vulnerable*** adult for a period of longer than one (1) month.

(6) The fee of the guardian ad litem shall be paid by the Cabinet ***for Families and Children*** not to exceed three hundred dollars ($300). This fee is not to be paid to attorneys employed by government funded legal services programs.

Section 13. KRS 209.120 is amended to read as follows:

(1) Upon petition by the Cabinet ***for Families and Children,*** a court may issue an order authorizing the provision of

emergency protective services to ***a vulnerable***[~~an~~] adult after a hearing and upon a finding based on a preponderance of the evidence that:

(a) The ***vulnerable*** adult is in a state of abuse ***or***[~~,~~] neglect[~~, or exploitation~~] and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others***, is being exploited, or is at risk of serious financial loss***;

(b) The ***vulnerable*** adult is in need of protective services;

(c) The ***vulnerable*** adult lacks the capacity to consent to such services; and

(d) No person authorized by law or court order to give consent for the ***vulnerable*** adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order***,*** the court shall adhere to the following limitations:

(a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.

(b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated taking into account the resources available to the state.***

(c) The issuance of an emergency order shall not deprive the ***vulnerable*** adult of any rights except to the extent validly provided for in the order.

(d) To implement an order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the ***vulnerable*** adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the Cabinet ***for Families and Children***.

(3) If the court finds, pursuant to a hearing, that the ***vulnerable*** adult is in need of protective services, and should that adult have a guardian who has been derelict in providing for the welfare of the adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the ***vulnerable*** adult, the court shall order the emergency protective services to terminate.

Section 14. KRS 209.130 is amended to read as follows:

(1) When***,*** from an affidavit or sworn testimony of an authorized representative of the Cabinet ***for Families and Children***, it appears probable that ***a vulnerable***[~~an~~] adult will suffer immediate and irreparable physical injury or death if protective services are not immediately provided, and it appears that the adult is incapable of giving consent, the court may assume jurisdiction and issue an ex parte order providing that certain specific protective services be provided the adult. The court shall not authorize such protective services except those specifically designed to remove the ***vulnerable*** adult from conditions of immediate and irreparable physical injury or death. A copy of the order shall be served upon the ***vulnerable*** adult and his guardian, or if none, his caretaker. ***Service for the vulnerable adult shall not be made upon the person who is believed to have perpetrated the abuse, neglect, or exploitation.***

(2) To implement an ex parte order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the Cabinet ***for Families and Children***.

(3) Upon the issuance of an ex parte order, the Cabinet ***for Families and Children shall***[~~must~~] file a petition as soon as possible. A hearing ***shall***[~~must~~] be held within seventy-two (72) hours, exclusive of Saturdays and Sundays, from the issuance of an ex parte order.

Section 15. KRS 209.140 is amended to read as follows:

All information obtained by ***an authorized agency***[~~the department staff~~] or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

(1) Persons suspected of abuse***,***[~~ or~~] neglect***,*** or exploitation, provided that in such cases names of informants may be withheld, unless ordered by the court;

(2) Persons within ***an authorized agency or its delegated representative***[~~the department or cabinet~~] with a legitimate interest or responsibility related to the case;

(3) Other medical, psychological, or social service agencies, ***financial institutions,*** or law enforcement agencies that have a

legitimate interest in the case;

(4) Cases where a court orders release of such information;[~~ and~~]

(5) The ***allegedly***[~~alleged~~] abused*,*[~~ or~~] neglected*,* or exploited person***; and***

(6) If the vulnerable adult is deceased, the executor or administrator of his estate.

Section 16. KRS 209.150 is amended to read as follows:

The following persons shall have standing to file a criminal complaint:

(1) Any person with personal knowledge of the abuse, neglect, or exploitation of a vulnerable adult by the vulnerable adult's caretaker;

(2) Any vulnerable adult who has been abused, neglected, or exploited; or

(3) Any representative of ***an authorized agency***[~~the cabinet~~] acting officially in that capacity[~~, any person with personal knowledge of the abuse or neglect, or exploitation of an adult by a caretaker, or an adult who has been abused or neglected or exploited shall have standing to make a criminal complaint~~].

SECTION 17. KRS CHAPTER 535 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) Any person who knowingly or wantonly violates the provisions of subsection (1) of Section 6 of this Act shall be guilty of a Class B misdemeanor. Each violation shall constitute a separate offense.

(2) Any person who knowingly abuses or neglects a vulnerable adult shall be guilty of a Class C felony.

(3) Any person who wantonly abuses or neglects a vulnerable adult shall be guilty of a Class D felony.

(4) Any person who recklessly abuses or neglects a vulnerable adult shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class C felony.

(6) Any person who wantonly or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class D felony.

(7) Any person who knowingly, wantonly, or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, shall be guilty of a Class A misdemeanor.

(8) Any person who knowingly and willfully financially exploits a vulnerable adult within the meaning of KRS Chapter 209 shall be guilty of a Class C felony.

(9) Immunity from criminal liability shall apply to a volunteer who is not compensated or does not expect compensation who makes a good faith effort to assist a vulnerable adult and the effort:

   (a) Fails; or

   (b) Results in harm to the adult if harm was not the intent of the person.

Section 18. The following KRS sections are repealed:

209.090 Legislative intent.

209.990 Penalties.

The Committee Substitute to **HB 242** is as follows:

HB 242, AN ACT relating to the protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.005 is amended to read as follows:

(1) ***The Kentucky Commission on Elder Abuse is created and shall consist of the following members:***

   (a) The secretary of the Cabinet for Families and Children, or a designee;

   (b) The secretary of the Cabinet for Health Services, or a designee;

   (c) The commissioner of the Department for Community Based Services, Cabinet for Families and Children, or a designee;

   (d) The director of the Division of Protection and Permanency, Cabinet for Families and Children, or a designee;

   (e) The executive director of the Office of the Ombudsman, Cabinet for Families and Children, or a designee;

   (f) The executive director of the Office of Aging Services, Cabinet for Health Services, or a designee;

   (g) The Inspector General, Cabinet for Health Services, or a designee;

   (h) The commissioner of the Department for Medicaid Services, Cabinet for Health Services, or a designee;

   (i) The commissioner of the Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, or a designee;

(j) The long-term care ombudsman, Office of Aging Services, Cabinet for Health Services, or a designee;

(k) The commissioner of the Department for Public Health, Cabinet for Health Services, or a designee;

(l) The director of the Area Agencies on Aging, Department for Local Government, Office of the Governor, or a designee;

(m) One (1) employee of the Office of the Attorney General who shall be appointed by the Attorney General;

(n) The commissioner of the Department of Insurance, Public Protection and Regulation Cabinet, or a designee;

(o) The director of the Division of Public Advocacy, Department of Public Advocacy, Public Protection and Regulation Cabinet, or a designee;

(p) One (1) employee of the Cabinet for Workforce Development who shall be appointed by the cabinet secretary;

(q) One (1) representative from the Sanders-Brown Center on Aging at the University of Kentucky who shall be appointed by the Governor;

(r) One (1) representative from the University of Louisville who shall be appointed by the Governor;

(s) Six (6) citizen members who shall be appointed by the Governor from a list of nominees submitted by the secretary of the Cabinet for Families and Children;

(t) Two (2) members of the Senate who shall be appointed by the President of the Senate;

(u) Two (2) members of the House of Representatives who shall be appointed by the Speaker of the House;

(v) One (1) law enforcement officer who is a detective with experience in conducting elder abuse investigations who shall be appointed by the secretary of the Justice Cabinet;

(w) The president of the Kentucky Association of Homes and Services for the Aging, Inc., or a designee; and

(x) The executive director of the Kentucky Association of Health Care Facilities, or a designee.

(2) The Governor shall appoint the initial chair and vice chair from the members of the commission, and the chair and vice chair shall serve in that capacity for a term of two (2) years. Thereafter, the commission shall annually elect the chair and vice chair from its membership.

(3) A majority of the voting members shall constitute a quorum for the transaction of any business, and special meetings shall be called in accordance with KRS 61.823.

(4) Meetings of the commission shall be open and accessible to the public in accordance with KRS 61.805 to 61.850[~~The Cabinet for Families and Children shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various state agency representatives from the following list:~~

~~(a) The Department for Community Based Services;~~

~~(b) The Department for Public Health;~~

~~(c) The Department for Mental Health and Mental Retardation;~~

~~(d) The Office of Aging Services;~~

~~(e) The Division of Long Term Care;~~

~~(f) The Office of the Ombudsman; and~~

~~(g) Area Agencies on Aging.~~

~~(2) The committee shall address issues of prevention, intervention, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:~~

~~(a) Senior citizen centers;~~

~~(b) Local governmental human service groups;~~

~~(c) The Sanders-Brown Center on Aging at the University of Kentucky;~~

~~(d) Long Term Care Ombudsmen; and~~

~~(e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.~~

~~(3) The committee shall:~~

~~(a) Explore the need for a comprehensive statewide resource directory of services for the elderly;~~

~~(b) Enhance existing public awareness campaigns for elder abuse and neglect; and~~

~~(c) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.~~

~~(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission~~].

SECTION 2. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Elder Abuse shall:

(a) Adopt by-laws for the regular operation of the commission;

(b) Develop a work plan to include the following:

1. Coordination of constituent calls to and contact with state programs;

2. Provision of public awareness resources on elder maltreatment; and

3. Coordination of media campaigns on elder maltreatment;

(c) Act as liaison for the Office of the Governor, the members of the General Assembly, and the public;

(d) Develop a state coordinating council on elder maltreatment to facilitate the development of local coordinating councils in accordance with model protocols;

(e) Identify and keep an up-to-date list of local community partners that address elder abuse issues;

(f) Distribute and update model protocols on elder maltreatment and services to appropriate agencies;

(g) Make recommendations for training and education on specified elder issues;

(h) Recommend model curriculum and trainer requirements for elder maltreatment education;

(i) Make recommendations on grant applications and funding sources for special projects;

(j) Serve as a repository of information on statewide elder issues;

(k) Make recommendations for pilot projects;

(l) Make recommendations on the system for data collection, measurements, and reporting of elder abuse cases; and

(m) Perform other duties relevant to the issue of elder abuse.

(2) The commission shall submit a report by September 30 of each year on activities, projects, and recommendations for public policy to the General Assembly, the Governor, the secretary of the Cabinet for Families and Children, the secretary of the Cabinet for Health Services, the Attorney General, and the secretary of the Public Protection and Regulation Cabinet. Public policy recommendations may be made regarding changes in state programs, legislation, administrative regulations, policies, treatments, and services and supports that may facilitate effective coordination, prevention, and intervention of elder abuse cases, the investigation, prosecution, and treatment of perpetrators of elder abuse, and the access of victims to services and supports.

(3) Members of the commission shall be eligible to receive actual and reasonable travel expenses.

(4) The Cabinet for Families and Children shall provide the necessary staff to assist the commission in carrying out its duties and responsibilities. State agencies having representation on the commission shall assist, within their budgetary limits, the cabinet and the commission in effectuating the duties and responsibilities of the commission.

Section 3. KRS 209.010 is amended to read as follows:

(1) The purpose of this chapter is:

(a)[~~(1)~~] To provide for the protection of ***vulnerable*** adults who may be suffering from abuse, neglect, or exploitation ***and who request or do not refuse protective services***, and to bring said cases under the purview of the Circuit or District Court.

(b)[~~(2)~~] To provide ***a mechanism to report abuse, neglect, or exploitation of a vulnerable adult***[~~that any person who becomes aware of such cases shall report them to a representative of the Cabinet~~], thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation.

(2) The General Assembly finds and declares as follows:

(a) Some adults are unable to manage their own affairs or to protect themselves from abuse, neglect, or exploitation and these persons often cannot find others who are able or willing to render assistance;

(b) This chapter creates a system of protective services in which the resources of the Commonwealth are coordinated to fill this need and to assure the availability of services to all vulnerable adults;

(c) Implementing agencies shall utilize the fewest possible restrictions on the exercise of personal and civil rights, consistent with the person's need for services, to ensure that any protective placement is necessary and is in the most integrated setting appropriate to the individual's treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state; and

(d) Due process shall be followed when imposing any restrictions on the vulnerable adult's exercise of personal and civil rights.

Section 4. KRS 209.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) *"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including sexual injury or mental anguish of a vulnerable adult;*

(2) "Access to records" means that any representative of an authorized agency shall be allowed access, subject to other

applicable law, to the medical, mental health, and financial records of the vulnerable adult that are in the possession of any individual, hospital, firm, financial institution, corporation, or other facility, if necessary to perform the authorized agency's duties as required by law;

(3) "Authorized agency" means:

(a) The Cabinet for Families and Children;

(b) A local law enforcement agency or the Kentucky State Police;

(c) The Medicaid Fraud and Abuse Control Unit, Office of the Attorney General, if a report relates to its duties as set forth in 42 U.S.C. 1396b(q);

(d) The Office of Inspector General, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a facility or agency licensed by the Cabinet for Health Services;

(e) The Office of the Long Term Care Ombudsman, Cabinet for Health Services, if a report relates to its duties as defined in 42 U.S.C. 3058g;

(f) The Office of Aging Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a certified assisted living facility;

(g) The Department for Public Health, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a registered boarding home;

(h) The Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a certified Supports for Community Living Program;

(i) The Kentucky Board of Nursing, if a report relates to abuse, neglect, or exploitation of a vulnerable adult by a licensed nurse or nurse aide; or

(j) Any other agency that is responsible for regulating an individual, facility, or program that is licensed, certified, registered, or otherwise regulated;

(4) "Caretaker" means an individual or institution who has the responsibility for the care of the vulnerable adult as a result of family relationship, or who has assumed the responsibility for the care of the vulnerable adult voluntarily, or by contract, employment, assignment, legal duty, or agreement;

(5) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;

(6) "Emergency" means that a vulnerable adult is living in conditions that present a substantial risk of death or immediate and serious physical or mental harm to himself or others;

(7) "Emergency protective services" are protective services furnished to a vulnerable adult in an emergency;

(8) "Exploitation" means causing or requiring a vulnerable adult to engage in activity that is against the reasonable and rational wishes of the adult, or the deliberate misplacement, wrongful, improper, illegal, or unauthorized use of funds, assets, or property;

(9) "Investigation" means the review of a report made under subsection (2) or (3) of Section 6 of this Act and any follow-up determination of whether an alleged victim is a vulnerable adult. The term may include the interview of the individual who has been reported as having been abused, neglected, or exploited, and of any other persons who may possess information relevant to the individual's condition or situation, including a coroner or doctor;

(10) "Neglect" means:

(a) Failure by a caretaker or a spouse to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness; or

(b) A situation in which a vulnerable adult is unable to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare;

(11) "Protective placement" means the transfer of a vulnerable adult from his present living arrangement to another;

(12) "Protective services" means services that are undertaken with or on behalf of a vulnerable adult who either does not refuse the services or has requested them. These services may include but are not limited to investigating complaints of possible abuse, neglect, or exploitation to ascertain whether the situation and condition of the vulnerable adult warrants further action; providing social services aimed at preventing and remedying abuse, neglect, and exploitation; assisting in the relocation of a vulnerable adult who is in need of protective services to protect him from abuse, neglect, or exploitation; obtaining legal redress, including but not limited to injunctive relief, on behalf of a vulnerable adult to protect him from abuse, neglect, or exploitation; or sharing information gathered from an investigation with a local law enforcement agency, the Kentucky State Police, or any other authorized agency; and

(13) "Vulnerable adult" means:

(a) A person eighteen (18) years of age or older, who because of mental or physical impairment is unable, without assistance from others, to manage his own resources, perform activities of daily living, or protect himself from abuse, neglect, or exploitation, and who is in need of protective services; or

(b) A person without regard to age who is the victim of abuse or neglect inflicted by a spouse[~~"Secretary" means the secretary of the Cabinet for Families and Children;~~

~~(2) "Cabinet" means the Cabinet for Families and Children;~~

~~(3) "Department" means the Department for Community Based Services of the Cabinet for Families and Children;~~

~~(4) "Adult" means:~~

~~(a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or~~

~~(b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;~~

~~(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;~~

~~(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;~~

~~(7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;~~

~~(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;~~

~~(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;~~

~~(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;~~

~~(11) "Emergency protective services" are protective services furnished an adult in an emergency;~~

~~(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;~~

~~(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;~~

~~(14) "Access to records" means that any representative of the Cabinet for Families and Children actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and~~

~~(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare~~].

SECTION 5. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The secretary of the Cabinet for Families and Children may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may take necessary action and may offer or cause to be offered protective services for safeguarding the welfare of a vulnerable adult who has experienced abuse, neglect, or exploitation. Nothing in this chapter shall restrict the authority of another authorized agency to take action pursuant to its statutory authority.

Section 6. KRS 209.030 is amended to read as follows:

(1)[~~The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.~~

~~(2)~~] Any person, including[~~,~~] but not limited to ***a***[~~,~~] physician, law enforcement officer, nurse, social worker,[~~cabinet~~] personnel ***of the Cabinet for Families and Children and the Cabinet for Health Services***, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall ***immediately*** report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(2) (a)[~~(3)~~] ***Any person who knows or has reasonable cause to believe that a vulnerable adult is abused, neglected, or exploited shall immediately cause*** an oral or written report ***to***[~~shall~~] be made***, by telephone or otherwise,*** [~~immediately~~]to the ***Cabinet for Families and Children***[~~cabinet upon knowledge of the occurrence of suspected~~

~~abuse, neglect, or exploitation of an adult~~].

(b) Any person making[~~ such~~] a report ***under paragraph (a) of this subsection*** shall provide the following information, if known:

1. The name and address of the ***vulnerable*** adult, or of any other person responsible for his care;

2. The age of the ***vulnerable*** adult;

3. The nature and extent of the abuse, neglect, or exploitation, including ***but not limited to*** any evidence of previous abuse, neglect, or exploitation;

4. The identity of the perpetrator, if known;

5. The identity of the complainant, if possible; and

6. Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(3)[~~(4)~~] Upon receipt of the report, the Cabinet ***for Families and Children*** shall take the following action as soon as ***practicable***[~~practical~~]:

(a) Notify the appropriate ***local*** law enforcement agency ***or the Kentucky State Police***;

(b) ***Notify each appropriate authorized agency or any other appropriate entity that has a legitimate interest in the report;***

(c) Initiate an investigation of the complaint; and

(d)[~~(c)~~]Make a written report of the initial findings together with a recommendation for further action, if indicated.

(4)[~~(5)~~] ***Upon request, any agency, institution, or facility providing services to adults shall cooperate, assist, and provide information that will enable an authorized agency to fulfill its responsibilities under this chapter.***

(5) Any representative of ***an authorized agency***[~~the cabinet~~] may enter any health facility or health service licensed by the Cabinet ***for Health Services*** at any reasonable time to carry out ***its***[~~the cabinet's~~] responsibilities under this chapter. Any representative of ***an authorized investigative agency***[~~the cabinet~~] actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the ***financial,*** mental ***health,*** and physical health records of the ***vulnerable*** adult ***that***[~~which~~] are in the possession of any individual, ***financial institution,*** hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of ***an authorized agency***[~~the cabinet~~] may***,*** with consent of the ***vulnerable*** adult or caretaker***,*** enter any private premises where ***a vulnerable***[~~any~~] adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the ***vulnerable*** adult or caretaker does not consent to the investigation, a search warrant may ***be issued***[~~issue~~] upon a showing of probable cause that ***a vulnerable***[~~an~~] adult is being abused, neglected, or exploited, to enable a representative of ***an authorized agency***[~~the cabinet~~] to proceed with the investigation.

(7) If ***the investigation indicates***[~~a determination has been made~~] that protective services are necessary[~~ when indicated by the investigation~~], the Cabinet ***for Families and Children*** shall provide such services within budgetary limitations, except in such cases where ***a vulnerable***[~~an~~] adult chooses to refuse such services.

(8) ***If***[~~In the event~~] the ***vulnerable*** adult ***chooses***[~~elects~~] to accept the protective services to be provided by the Cabinet ***for Families and Children***, the caretaker shall not interfere with the ***cabinet's delivery of***[~~cabinet when rendering~~] such services.

Section 7. KRS 209.040 is amended to read as follows:

Any court may***,*** upon proper application by ***an authorized agency or a private citizen,***[~~the cabinet~~] issue a restraining order or other injunctive relief to prohibit any violation of this chapter, regardless of the existence of any other remedy at law.

Section 8. KRS 209.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of any report or investigation or participating in the filing of a petition to obtain injunctive relief or emergency protective services for ***a vulnerable***[~~an~~] adult pursuant to this chapter, including representatives of ***an authorized agency***[~~the cabinet~~] in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant either to the consent of the ***vulnerable*** adult or to court order.

(2) Nothing in this chapter shall be construed to impose civil liability on a volunteer who makes a good faith effort for which the volunteer is not compensated or does not expect compensation to assist a vulnerable adult, including but not limited to assistance in the management of funds, assets, or property of the vulnerable adult or the provision of services, if the effort fails or a vulnerable adult is harmed in any way through no fault of the person.

Section 9. KRS 209.060 is amended to read as follows:

Only the attorney-client[~~Neither the psychiatrist-patient privilege nor the husband-wife~~] privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of *a vulnerable*[~~an~~] adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to define the role of each authorized agency that provides services to vulnerable adults.

(2) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, the Cabinet for Families and Children shall:

(a) Notify the appropriate local law enforcement agency or the Kentucky State Police;

(b) Notify the Commonwealth's attorney or county attorney;

(c) Notify each additional authorized agency or entity that has a legitimate interest in the allegation;

(d) Investigate the allegation and determine whether the vulnerable adult was abused, neglected, or exploited;

(e) Report the cabinet's investigative findings to the appropriate local law enforcement agency or Kentucky State Police, Commonwealth's attorney or county attorney, and each additional authorized agency or entity that has a legitimate interest in the allegation; and

(f) Offer protective services to each victim of abuse, neglect, or exploitation.

(3) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, or upon notification from the Cabinet for Families and Children that a vulnerable adult has been identified as a victim of abuse, neglect, or exploitation, the local law enforcement agency or the Kentucky State Police shall conduct a criminal investigation, identify any person or persons suspected of abuse, neglect, or exploitation, and file charges as appropriate. The Commonwealth's attorney or county attorney shall prosecute, in his discretion, each case in which a local law enforcement agency or the Kentucky State Police has identified a suspect of abuse, neglect, or exploitation.

(4) For allegations of abuse, neglect, or exploitation in Medicaid facilities and any other facilities as defined in 42 U.S.C. sec. 1396b(q), the Medicaid Fraud and Abuse Control Unit, Office of Attorney General, shall:

(a) Conduct a criminal investigation;

(b) Prosecute, in its discretion, or refer for prosecution, as set out in 42 U.S.C. sec. 1396b(q), these cases of abuse, neglect, or exploitation.

(5) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a licensed health care facility to the Office of Inspector General, Cabinet for Health Services, which shall determine whether the facility complied with regulatory requirements.

(6) Upon notification that the Cabinet for Families and Children has substantiated that abuse, neglect, or exploitation of a resident occurred in a suspected unlicensed or illegal health facility as defined in KRS 216B.015(12), the Office of Inspector General, Cabinet for Health Services shall determine whether the facility operated illegally or without a license and, if so, take all necessary steps to cease illegal operation.

(7) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a Supports for Community Living facility to the Division of Mental Retardation, Department for Mental Health and Mental Retardation, Cabinet for Health Services, which shall determine whether the facility complied with regulatory requirements and whether the adult was abused, neglected, or exploited.

(8) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a certified or registered facility or program to the agency that has regulatory authority over the facility or program, which shall determine whether the facility or program complied with regulatory requirements and take such action as may be authorized by law.

(9) Upon notification from the Cabinet for Families and Children that a licensed, registered, or certified professional staff person had access to a victim during the time that abuse, neglect, or exploitation of an adult occurred, the agency responsible for licensing, registering, or certifying the individual shall take such action as may be authorized by law.

(10) Upon receipt of an allegation of abuse, neglect, or exploitation, the Long Term Care Ombudsman shall act in accordance with the requirements set forth in 42 U.S.C. sec. 3058g(a)(3) and the Federal Older Americans Act.

Section 11. KRS 209.100 is amended to read as follows:

(1) If *a vulnerable*[~~an~~] adult lacks the capacity to consent *or refuse* to receive protective services in an emergency, *protective*[~~these~~] services may be ordered by a court on an emergency basis through an order pursuant to KRS 209.110, provided that:

(a) The *vulnerable* adult is in a state of abuse*,*[~~ or~~] neglect*, or exploitation* and an emergency exists;

(b) The *vulnerable* adult is in need of protective services; *and*

(c)[~~ The *vulnerable* adult lacks the capacity to consent and refuses to consent to such services; and~~

~~(d)~~] No person authorized by law or court order to give consent for the *vulnerable* adult is available to consent to emergency protective services or such person refuses to give consent.

(2) In ordering emergency protective services, the court shall authorize only that intervention *that*[~~which~~] it finds to be the

least restrictive of the individual's liberty and rights while consistent with his welfare and safety. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state.***

Section 12. KRS 209.110 is amended to read as follows:

(1) A petition by the Cabinet ***for Families and Children*** for emergency protective services shall be verified by an authorized representative of the cabinet and shall set forth the name, age, and address of the ***vulnerable*** adult in need of protective services; the nature of the disability of the ***vulnerable*** adult, if determinable; the proposed protective services; the petitioner's reasonable belief, together with the facts supportive thereof, as to the existence of the facts, and the facts showing the petitioner's attempts to obtain the ***vulnerable*** adult's consent to the services and the outcomes of such attempts. The petition and all subsequent court documents shall be entitled: "In the interest of----- , ***a vulnerable***[~~an~~] adult in need of protective services." The petition shall be filed in the court of the ***vulnerable*** adult's residence, or if filed pursuant to KRS 209.130, the court of the county in which the ***vulnerable*** adult is physically located.

(2) When a petition for emergency protective services is filed, the court or the clerk shall immediately appoint a guardian ad litem to represent the interest of the ***vulnerable*** adult. The duties of a guardian ad litem representing ***a vulnerable***[~~an~~] adult for whom a petition for emergency protective services has been filed shall include personally interviewing the ***vulnerable*** adult, counseling with the ***vulnerable*** adult with respect to this chapter, informing him of his rights and providing competent representation at all proceedings, and such other duties as the court may order.

(3) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the ***vulnerable*** adult and his guardian or, if none, his caretaker. Should the ***vulnerable*** adult have no guardian or caretaker, service shall be made upon the ***vulnerable*** adult's guardian ad litem. Notice of the hearing shall be given to the ***vulnerable*** adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be ***impracticable***[~~impractical~~]. Service ***for the vulnerable adult shall not be made upon any person who is believed to have perpetrated the abuse, neglect, or exploitation. Service*** of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

(4) The hearing on the petition for an emergency order for protective services shall be heard under the following conditions:

(a) The hearing on the petition, in the interests of expedition, may be held in any county within the judicial district or circuit served by the court. The court shall give priority to the holdings of the hearings pursuant to petitions filed under this chapter;

(b) The ***vulnerable*** adult or his representative may present evidence and cross-examine witnesses; and

(c) The ***vulnerable*** adult or his representative may petition the court to have any order which is entered pursuant to this chapter[~~,~~] set aside or modified for good cause.

(5) Where protective services are rendered on the basis of an order pursuant to this section, the cabinet shall submit a report to the court describing the circumstances including the name, place, date, and nature of the services. Such report shall be made at least once or on a monthly basis if protective services are provided the ***vulnerable*** adult for a period of longer than one (1) month.

(6) The fee of the guardian ad litem shall be paid by the Cabinet ***for Families and Children*** not to exceed three hundred dollars ($300). This fee is not to be paid to attorneys employed by government funded legal services programs.

Section 13. KRS 209.120 is amended to read as follows:

(1) Upon petition by the Cabinet ***for Families and Children,*** a court may issue an order authorizing the provision of emergency protective services to ***a vulnerable***[~~an~~] adult after a hearing and upon a finding based on a preponderance of the evidence that:

(a) The ***vulnerable*** adult is in a state of abuse ***or***[~~,~~] neglect[~~, or exploitation~~] and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others***, is being exploited, or is at risk of serious financial loss***;

(b) The ***vulnerable*** adult is in need of protective services;

(c) The ***vulnerable*** adult lacks the capacity to consent to such services; and

(d) No person authorized by law or court order to give consent for the ***vulnerable*** adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order***,*** the court shall adhere to the following limitations:

(a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.

(b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated taking into account the resources available to the state.***

(c) The issuance of an emergency order shall not deprive the ***vulnerable*** adult of any rights except to the extent validly provided for in the order.

(d) To implement an order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the ***vulnerable*** adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the Cabinet ***for Families and Children***.

(3) If the court finds, pursuant to a hearing, that the ***vulnerable*** adult is in need of protective services, and should that adult have a guardian who has been derelict in providing for the welfare of the adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the ***vulnerable*** adult, the court shall order the emergency protective services to terminate.

Section 14. KRS 209.130 is amended to read as follows:

(1) When***,*** from an affidavit or sworn testimony of an authorized representative of the Cabinet ***for Families and Children***, it appears probable that ***a vulnerable***[~~an~~] adult will suffer immediate and irreparable physical injury or death if protective services are not immediately provided, and it appears that the adult is incapable of giving consent, the court may assume jurisdiction and issue an ex parte order providing that certain specific protective services be provided the adult. The court shall not authorize such protective services except those specifically designed to remove the ***vulnerable*** adult from conditions of immediate and irreparable physical injury or death. A copy of the order shall be served upon the ***vulnerable*** adult and his guardian, or if none, his caretaker. ***Service for the vulnerable adult shall not be made upon the person who is believed to have perpetrated the abuse, neglect, or exploitation.***

(2) To implement an ex parte order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the Cabinet ***for Families and Children***.

(3) Upon the issuance of an ex parte order, the Cabinet ***for Families and Children shall***[~~must~~] file a petition as soon as possible. A hearing ***shall***[~~must~~] be held within seventy-two (72) hours, exclusive of Saturdays and Sundays, from the issuance of an ex parte order.

Section 15. KRS 209.140 is amended to read as follows:

All information obtained by ***an authorized agency***[~~the department staff~~] or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

(1) Persons suspected of abuse***,***[~~ or~~] neglect***,*** or exploitation, provided that in such cases names of informants may be withheld, unless ordered by the court;

(2) Persons within ***an authorized agency or its delegated representative***[~~the department or cabinet~~] with a legitimate interest or responsibility related to the case;

(3) Other medical, psychological, or social service agencies, ***financial institutions,*** or law enforcement agencies that have a legitimate interest in the case;

(4) Cases where a court orders release of such information;[~~ and~~]

(5) The ***allegedly***[~~alleged~~] abused***,***[~~ or~~] neglected***,*** or exploited person***; and***

(6) If the vulnerable adult is deceased, the executor or administrator of his estate.

Section 16. KRS 209.150 is amended to read as follows:

The following persons shall have standing to file a criminal complaint:

(1) Any person with personal knowledge of the abuse, neglect, or exploitation of a vulnerable adult by the vulnerable adult's caretaker;

(2) Any vulnerable adult who has been abused, neglected, or exploited; or

(3) Any representative of ***an authorized agency***[~~the cabinet~~] acting officially in that capacity[~~, any person with personal knowledge of the abuse or neglect, or exploitation of an adult by a caretaker, or an adult who has been abused or neglected or exploited shall have standing to make a criminal complaint~~].

SECTION 17. KRS CHAPTER 535 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Abuse" means the infliction of physical pain, injury, or mental anguish;

(2) "Caretaker" means an individual or institution who has the responsibility for the care of the vulnerable adult as a result of a family relationship, or who has assumed the responsibility for the care of the vulnerable adult voluntarily, or by contract, employment, assignment, legal duty, or agreement;

(3) "Exploitation" means causing or requiring a vulnerable adult to engage in activity that is against the reasonable and rational wishes of the adult, or the deliberate misplacement or wrongful, improper, illegal, or unauthorized use of a vulnerable adult's funds, assets, or property;

(4) "Neglect" means failure by a caretaker to provide goods or services necessary to avoid physical harm, mental anguish, or mental illness; and

(5) "Vulnerable adult" means a person eighteen (18) years of age or older, who because of mental or physical impairment is unable, without assistance from others, to manage his or her own resources, perform activities of daily living, or protect himself or herself from abuse, neglect, or exploitation.

SECTION 18. A NEW SECTION OF KRS CHAPTER 535 IS CREATED TO READ AS FOLLOWS:

(1) Any person who knowingly or wantonly violates the provisions of subsection (1) of Section 6 of this Act shall be guilty of a Class B misdemeanor. Each violation shall constitute a separate offense.

(2) Any person who knowingly abuses or neglects a vulnerable adult shall be guilty of a Class C felony.

(3) Any person who wantonly abuses or neglects a vulnerable adult shall be guilty of a Class D felony.

(4) Any person who recklessly abuses or neglects a vulnerable adult shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class C felony.

(6) Any person who wantonly or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class D felony.

(7) Any person who knowingly, wantonly, or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, shall be guilty of a Class A misdemeanor.

(8) Any person who knowingly and willfully financially exploits a vulnerable adult within the meaning of KRS Chapter 209 shall be guilty of a Class C felony.

(9) Immunity from criminal liability shall apply to a volunteer who is not compensated or does not expect compensation, and is not a caretaker as defined in Section 17 of this Act, who makes a good faith effort to assist a vulnerable adult and the effort:

(a) Fails; or

(b) Results in harm to the adult if harm was not the intent of the person.

Section 19. The following KRS sections are repealed:

209.090 Legislative intent.

209.990 Penalties.

HB 295, AN ACT relating to military discharge papers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 422.090 is amended to read as follows:

(1) All discharge papers, given, executed or delivered to any person in the military or naval service of the United States, which evidence his discharge from the service of the United States and show the unit or part of the department to which he was attached and from which he was discharged may be recorded in the office of the county clerk of the county in which the person discharged is a resident. Upon the presentation of such discharge papers the county clerk shall record them, without charge therefor, in a suitable book which he shall provide for that purpose.

(2) A certified or attested copy of such recorded discharge is admissible evidence in all proceedings in which such discharge may come in question or in which it might be used as legal evidence of any fact.

(3) It shall be the duty of each county clerk to index alphabetically the name of each person whose discharge papers are recorded as provided in this section and to keep such index as a permanent *public* record*, subject to the Kentucky Open Records Act, KRS 61.870 to 61.884 and KRS 61.991,* in such office.~~[The index may be bound with the book in which the discharge papers are recorded, or may be a separate bound index, to be kept with the book in which the discharge papers are recorded.]~~

(4) (a) Except as provided in paragraph (b) of this subsection, discharge papers recorded with the county clerk shall not be public records subject to the Kentucky Open Records Act.

(b) 1. If a veteran is living, that veteran may obtain a certified or attested copy of his or her discharge papers.

2. If a veteran is deceased, that veteran's widow or widower, child, parent, grandchild, grandparent, or sibling may obtain a certified or attested copy of his or her discharge papers.

3. A funeral director handling the funeral arrangements for a deceased veteran may obtain a certified or attested copy of that veteran's discharge papers.

4. Discharge papers shall be subject to discovery under federal and Kentucky rules of criminal and civil procedure.

5. The county clerk shall provide a certified or attested copy of discharge papers to a person when directed to do so by a court order.

HB 309, AN ACT relating to wireless communications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 11.501 TO 11.517 IS CREATED TO READ AS FOLLOWS:

The Kentucky Wireless Interoperability Executive Committee is hereby created to address communications interoperability, a homeland security issue which is critical to the ability of public safety first responders to communicate with each other by radio. The committee shall advise and make recommendations to the chief information officer regarding strategic wireless initiatives to achieve public safety voice and data communications interoperability.

SECTION 2. A NEW SECTION OF KRS 11.501 TO 11.517 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

(1) "Architecture" means the design principles, physical structure, and functional organization of a land mobile radio system;

(2) "Frequency" means for a periodic function, the number of cycles or events per unit time;

(3) "Interoperability" means:

(a) The ability of systems, units, or forces to provide services to and accept services from other systems, units, or forces and to use the services so exchanged to enable them to operate effectively together; and

(b) The condition achieved among communications-electronics systems or items of communications-electronic equipment when information or services can be exchanged directly and satisfactorily between them and their users;

(4) "Public safety working group" means a working group whose mission is to design and develop a seamless coordinated plan for the use of the public safety frequency spectrum as regulated by the Federal Communications Commission;

(5) "Spectrum" means a usable radio frequency in the electromagnetic distribution; and

(6) "Standards" means:

(a) Engineering and technical requirements that are necessary to be employed in the design of systems, units, or forces and to use the services so exchanged to enable them to operate effectively together; and

(b) Established protocol that provides a common interface.

SECTION 3. A NEW SECTION OF KRS 11.501 TO 11.517 IS CREATED TO READ AS FOLLOWS:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development and recommendation of architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth. The committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies presented by state agencies, and shall forward these to the chief information officer for final approval.

(3) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Department of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(4) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(5) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(6) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(7) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(8) The committee may establish additional working groups as determined by the committee.

HB 334, AN ACT relating to the Kentucky Military Museum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.345 is amended to read as follows:

(1) There is established the Kentucky Military Museum which shall be housed in the Old State Arsenal, and shall serve as repository of objects relating to the Commonwealth's military history.

(2) The Kentucky Historical Society and its staff shall maintain the museum, receive, store and catalogue all military historical items, and exercise fiduciary responsibility in the preservation and maintenance of the Old State Arsenal and all objects placed *or loaned for display* therein.

(3) The Department for Military Affairs and the adjutant general shall provide the Old State Arsenal as the museum facility, shall maintain and operate the building and grounds, and shall cooperate in contributing items of military history for display within the museum.

(4) There is hereby created the Kentucky Military Museum Committee which shall establish policies and procedures for operation of the Military Museum.

(5) *(a)* The committee shall be composed of the *following:*

1. *The* adjutant general*, as an ex officio voting member;*

2. *The*[~~and~~] director of the Historical Society, *as an ex officio voting member;*[~~both serving ex officio,~~] and

3. *Twelve (12)*[~~six (6)~~] members[~~, each selected from lists of three (3) nominees, with three (3) lists submitted from each ex officio member, all~~] appointed by the Governor *under paragraph (b) of this subsection*[~~to serve for terms of four (4) years. The Governor shall also appoint a chairman of the committee from its membership~~].

(b) *1.* *Members of the Kentucky Military Museum Committee shall be appointed under this paragraph. By December 15, 2004, the adjutant general and the director of the Historical Society shall each submit six (6) lists of three (3) nominees each. By December 31, 2004, the Governor shall appoint the twelve (12) new members by selecting one (1) member from each list as provided for in subparagraph 2. of this paragraph. Every list shall include at least one (1) nominee with military service, and the ex officio members and the Governor shall give due consideration to fair representation on the committee from all branches of the military.*

2. *The Governor shall appoint the first member from a list submitted by the adjutant general, the second from a list submitted by the director of the Historical Society, and the third from a list submitted by the adjutant general. In this manner, the Governor shall alternate until the twelve (12) new members are appointed. The terms of the twelve (12) new members shall begin January 1, 2005.*

3. *The terms of the twelve (12) new members shall be staggered by one (1) year upon each successive appointment, the first member appointed to serve a term of one (1) year with each successive member to serve one (1) more year than the prior appointed member's term. This cycle shall begin again for every fifth member appointed to a vacancy so that no member shall be appointed to a term that exceeds four (4) years in length.*

4. *a.* *Except as provided in subdivision b. of this subparagraph, after the initial round of twelve (12) appointments, the terms for all members shall be four (4) years, and the method of appointment shall continue the practice of the Governor alternating between lists of three (3) nominees submitted by the adjutant general and the director of the Historical Society. A list of nominees shall be submitted by December 15, and the Governor shall make the appointment by December 31. The member's term shall begin January 1.*

b. *If any person fails to complete his or her term, whether an initial term beginning January 1, 2005, or later, his or her successor shall be appointed to complete the unexpired term. The Governor shall appoint the successor from a list of three (3) nominees submitted by the same official, the adjutant general or the director of the Historical Society, who submitted the list of three (3) nominees from which the predecessor was appointed. The list shall be submitted to the Governor within fifteen (15) days after the vacancy occurs, and the Governor shall make his or her appointment from the list within fifteen (15) days after the submission.*

5. *No committee member shall serve more than two (2) consecutive terms. A person appointed to finish an unexpired term exceeding two (2) years shall be deemed to have served a full term. A former member may be reappointed following an absence of one (1) term.*

(c) *A committee member shall be removed for cause only when nine (9) members of the committee vote for removal. Failure to attend at least half of the committee meetings in a calendar year shall be sufficient cause.*

(d) *1.* *In February of every odd-numbered year, the committee shall elect a chair, vice chair, and secretary, each to serve two (2) year terms. In the absence of the chair or in the event of a vacancy in that position, the vice chair shall serve as chair.*

2. *If a chair, vice chair, or secretary fails to complete his or her two (2) year term, the committee, within thirty (30) days of the vacancy, shall appoint a successor to complete the term.*

3. *A quorum shall consist of seven (7) or more members. Except as provided in paragraph (c) of this subsection, an affirmative vote of three (3) or more members shall be necessary for committee action.*

(6)[~~(5)~~]The Military Museum and committee shall be attached to the Kentucky Historical Society for administrative and other purposes.

Section 2. This Act takes effect December 1, 2004.

The Committee on Appropriations and Revenue reported **HB 40**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 346** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 346, AN ACT relating to sales tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific customer specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;[~~ and~~]

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller, or is an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination*; and*

(17) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate.

Section 2. The provisions of this Act shall also apply retroactively to periods beginning prior to the effective date of this Act.

The Committee on Labor and Industry reported **HB 115**, with Committee Substitute attached thereto, **HB 171**, with Committee Substitute attached thereto, **HB 221**, with Committee Substitute attached thereto, and **HB 228** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 115, AN ACT relating to electrical workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 227A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act unless the context otherwise requires:

(1) "Authorized local licensing program" means any city, county, urban-county, or consolidated county government electrician and electrical contractor licensing program established by local ordinance for the purpose of licensing electrical workers. "Authorized local licensing program" shall include a licensing program established through a cooperative agreement between two (2) or more counties;

(2) "Department" means the Department of Housing, Buildings and Construction;

(3) "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician;

(4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(5) "Master electrician" means any individual licensed to assume responsible charge, supervision, or direction of an electrician engaged in the construction, installation, alteration, or repair of electrical wiring used to furnish heat, light, or power;

(6) "Maintenance worker or maintenance engineer" means a person who is a regular, bona fide employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction over the property where the routine maintenance of electrical systems is being performed;

(7) "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to ensure the proper operation and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems;

(8) "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or

power; and

(9) "Committee" means the Electrical Advisory Committee as described in KRS 227.530.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) A person who is not licensed as an electrical contractor shall not represent himself or herself to the public as an electrical contractor or use any terms, titles, or abbreviations which express or imply that the person is a licensed electrical contractor.

(2) A person who is not licensed as a master electrician shall not represent himself or herself to the public as a master electrician or use any terms, titles, or abbreviations which express or imply that the person is a licensed master electrician.

(3) A person who is not licensed as an electrician shall not represent himself or herself to the public as an electrician or use any terms, titles, or abbreviations which express or imply that the person is a licensed electrician.

(4) A person who is not licensed as an electrical contractor, electrician, or master electrician shall not engage in any activities or perform any of the duties usually performed by an electrical contractor, electrician, or master electrician unless the unlicensed person is under the direct and constant supervision of a licensed electrician or master electrician who is present on the site where the work is being performed.

(5) An authorized local licensing program in existence on the effective date of this Act may contract with the department to become an agent of the department for purposes of the issuance and renewal of licenses issued pursuant to Sections 1 to 14 of this Act. The department may also contract with local governments that want to become authorized licensing programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 14 of this Act shall not apply to installations under the exclusive control of electric utilities for the purpose of communication, of metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for those purposes or located outdoors on property owned or leased by the utility or on public highways, streets, or roads, or outdoors by established rights on private property.

(2) Nothing in Sections 1 to 14 of this Act shall require that a maintenance worker or maintenance engineer performing routine maintenance of electrical systems be licensed.

(3) Nothing in Sections 1 to 14 of this Act shall prohibit or interfere with the ability of a homeowner or farmer to install or repair electrical wiring on his or her personal property.

(4) Nothing in Sections 1 to 14 of this Act shall require that a retailer or its agent engaged in making installations of a consumer product purchased at a retail establishment be licensed.

(5) Nothing in Sections 1 to 14 of this Act shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.

(6) Nothing in Sections 1 to 14 of this Act shall preclude the use of unlicensed, nonresident electricians in temporary, emergency, or industrial shutdown situations. Those unlicensed, nonresident electricians shall apply for an electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of thirty (30) days. The license shall be obtained by the temporary, unlicensed, nonresident electricians within sixty (60) days of securing employment.

(7) Nothing in Sections 1 to 14 of this Act shall apply to a person performing work at a surface or underground coal mine or at a coal preparation plant.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department, with assistance from the Electrical Advisory Committee, shall administer and enforce the provisions of Sections 1 to 14 of this Act and shall evaluate the qualifications of applicants for licensure.

(2) The department may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 14 of this Act or the administrative regulations promulgated under Sections 1 to 14 of this Act and KRS Chapter 13A.

(3) The department shall conduct hearings under KRS Chapter 13B and keep records and minutes necessary to carry out the function of Sections 1 to 14 of this Act.

(4) The department, with assistance from the Electrical Advisory Committee, shall evaluate the qualifications of applicants and issue licenses to qualified candidates.

(5) The department shall renew licenses.

(6) The department may:

- *(a) Refuse to issue or renew a license;*
- *(b) Suspend or revoke a license;*
- *(c) Impose supervisory or probationary conditions upon a licensee;*

(d) Impose administrative disciplinary fines;

(e) Issue written reprimands or admonishments; and

(f) Take any combination of the actions permitted in this subsection.

(7) The department may seek injunctive relief in the Circuit Court of Franklin County, in the county in which the violation occurred, or in the county where the business of the accused is located to stop any unlawful practice in Sections 1 to 14 of this Act and administrative regulations promulgated thereunder. The department may also seek injunctive relief for unlicensed persons who inappropriately use the title "electrical contractor," "electrician," or "master electrician."

(8) The department, with advice from the Electrical Advisory Committee, may promulgate administrative regulations to create a code of ethics governing electrical contractors, electricians, and master electricians.

(9) The department may enter into reciprocal agreements with other states having licensure, certification, or registration qualifications and requirements substantially equal to those of this state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the department under the provisions of Sections 1 to 14 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for use by the department in administering the provisions of Sections 1 to 14 of this Act.

(2) No part of this revolving fund shall revert to the general funds of the Commonwealth.

(3) An authorized local licensing program under Sections 1 to 14 of this Act shall negotiate with the department the amount of the fees to be retained by the authorized local licensing program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department shall issue a license as an "electrical contractor" to an applicant who meets the following requirements:

(a) Has paid to the department the application fee not to exceed two hundred dollars ($200) and the appropriate examination fee, which shall not exceed the actual cost of examination;

(b) Has achieved a passing score, as set by the department, on all portions of the examination required by the department. The department shall promulgate administrative regulations to specify who shall take the examination if the applicant is a business entity; and

(c) Has submitted proof that he or she has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars ($500,000).

(2) The department shall issue a license as a "master electrician" to an applicant who meets the following requirements:

(a) Has paid to the department the application fee not to exceed two hundred dollars ($200) and the appropriate examination fee not to exceed the actual cost of the examination;

(b) Has completed:

1. Six (6) years of verifiable experience in the electrical trade; and

2. A training course on electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; and

(c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.

(3) The department shall issue a license as an "electrician" to an applicant who meets the following requirements:

(a) Has paid to the department the application fee not to exceed fifty dollars ($50) and the appropriate examination fee not to exceed the actual cost of the examination;

(b) Has completed:

1. Four (4) years of verifiable experience in the electrical trade; and

2. A training course on electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; and

(c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Upon application to the department and payment of all applicable fees, the department shall license by endorsement an applicant who is registered, licensed, or certified in another state if the requirements for registration, licensing, or certification in the issuing state are substantially equal to the requirements for licensing in the Commonwealth of Kentucky and the applicant is in good standing in the issuing state. The department shall license an applicant by endorsement only if the issuing state extends similar reciprocity to Kentucky citizens licensed under Sections 1 to 14 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) Upon payment of all applicable fees, an applicant for licensure as a master electrician under Section 6 of this Act making application to the department prior to July 15, 2004, may be licensed by the department without completing the licensure requirements as established in Section 6 of this Act if:

- *(a) The applicant is currently licensed by a city, county, urban-county, consolidated local government, or the state of Kentucky; or*
- *(b) The applicant is currently licensed, certified, or registered as a master electrician in another state whose standards are substantially equal to those in Section 6 of this Act.*

(2) Prior to July 15, 2004, an applicant who does not qualify for licensure under subsection (1) of this section or Section 6 of this Act may qualify for licensure by the following:

- *(a) An applicant for licensure as an electrical contractor shall qualify by showing a minimum of two (2) years of verifiable experience engaging in the work of an electrical contractor in this state;*
- *(b) An applicant for licensure as a master electrician shall qualify by showing a minimum of six (6) years of verifiable experience as an electrical worker in this state; and*
- *(c) An applicant for licensure as an electrician shall qualify by showing a minimum of four (4) years of verifiable experience as an electrical worker in this state.*

Under this subsection, any individual who is currently engaged in the work of an electrical contractor, electrician, or master electrician but who has not been licensed by the state or any locality may qualify for licensure in lieu of requirements in Section 6 of this Act by documenting the appropriate years of experience in his or her respective area.

(3) After July 15, 2004, licensure under this section shall cease.

SECTION 9. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department, with advice from the Electrical Advisory Committee, shall select and approve an examination to be used in determining the competency of persons to be licensed under Sections 1 to 14 of this Act. Examinations selected and approved for each level of licensing shall be nationally recognized examinations which have been determined through proper validation techniques to measure successfully an individual's competency to perform the licensed practice.

(2) The department shall offer the examinations on a regularly scheduled basis in localities determined by the committee. The department shall offer the examinations through any authorized local licensing program.

(3) The department may contract with an outside entity or testing service for the administration of examinations required for licensure.

SECTION 10. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) Each licensee licensed under the provisions of Sections 1 to 14 of this Act shall annually, on or before the anniversary date of the license, pay to the department a renewal fee as established in administrative regulations promulgated by the department.

(2) A sixty (60) day grace period shall be allowed after the anniversary date of the license during which time a licensee may continue to practice and may renew his or her license upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the department.

(3) A license not renewed before the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(4) After the sixty (60) day grace period, a former licensee with a terminated license may have the license reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the department. An applicant for reinstatement after termination of the license shall not be required to submit to any examination as a condition for reinstatement, if the reinstatement application is made within three (3) years from the date of termination.

(5) A suspended license is subject to expiration and termination and shall be renewed as provided in this section. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the department and the right to practice is restored by the department.

(6) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the former licensee shall pay the reinstatement fee as promulgated by administrative regulations under subsection (4) of this section and the renewal fee as promulgated by administrative regulations under subsection (1) of this section.

(7) The department shall require an applicant for renewal or reinstatement of a license to show evidence of completing at least six (6) hours of continuing education provided by the National Electrical Contractors Association, the Associated Builders and Contractors, the International Brotherhood of Electrical Workers, the Associated General Contractors, the International Association of Electrical Inspectors, the Independent Electrical Contractors Association, the Kentucky Department of Housing, Buildings and Construction, or other provider of instruction approved by the department. The department shall promulgate administrative regulations establishing the content of the programs and the qualifications of the providers.

(8) The department shall require, where applicable, that an applicant for renewal or reinstatement of a license submit proof that the applicant has complied with workers' compensation and unemployment insurance laws and regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars ($500,000).

SECTION 11. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department may, following a hearing pursuant to KRS Chapter 13B, impose sanctions specified in Section 4 of this Act upon proof that the licensee has:

(a) Misrepresented or concealed a material fact in obtaining a license, or in the reinstatement thereof;

(b) Been incompetent or negligent in the practice of performing electrical work;

(c) Failed to comply with an order issued by the department or an assurance of voluntary compliance; or

(d) Violated any provisions of Sections 1 to 14 of this Act and administrative regulations promulgated thereunder.

(2) One (1) year from the date of a revocation, any former licensee whose license has been revoked may petition the department for reinstatement. The department shall investigate the petition and may reinstate the license upon a finding that the applicant has complied with any terms prescribed by the department and is again able to competently engage in the practice of performing electrical work.

(3) At any time during the investigative or hearing processes, the department may enter into an agreed order or accept an assurance of voluntary compliance with the license holder which effectively deals with the complaint.

(4) The department may reconsider, modify, or reverse its probations, suspensions, or other disciplinary actions.

SECTION 12. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Any party aggrieved by a disciplinary action of the department may bring an action in the Circuit Court of Franklin County under the provisions of KRS Chapter 13B.

SECTION 13. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Any person who violates or aids in the violation of any provision of Section 2 of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or sentenced to jail for not less than ten (10) nor more than one hundred eighty (180) days, or both.

SECTION 14. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) A master electrician who ceases to be associated with the electrical contractor and is the representative by which the licensed electrical contractor qualifies shall immediately report his or her disassociation to the department or the authorized local licensing program. The master electrician shall be responsible for all work done under his or her license until the department or the authorized local licensing program is notified by the master electrician that he or she is no longer associated with the electrical contractor.

(2) If the holder of any electrical license ceases to be a part of the business relying upon the holder's license for its right to remain in business, the business shall employ a licensed person prior to the continuance of any business activity or within thirty (30) days, whichever comes first.

Section 15. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any *licensed* individual, partnership, or corporation that *is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician*[~~engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power~~];

(2) "Electrician" means any person *licensed by the department* who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;

(3) "Electrical" pertains to the installation*, alteration, or repair* of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(4) "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky; and

(5) "Department" means the Department of Housing, Buildings and Construction.

Section 16. KRS 227.480 is amended to read as follows:

(1) A city,[~~ or~~] county*, urban-county, or consolidated local government* shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits

before commencing construction, alteration, or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property.

(2) A city,[~~ or~~] county***, urban-county, or consolidated local government*** or the state shall not issue a permit unless the applicant submits ***proof of being licensed under Sections 1 to 14 of this Act***[~~, through an affidavit or other means prescribed by the city, county or state, that he has complied with workers' compensation and unemployment insurance laws and regulations. The city or county shall also require the applicant to submit proof in the manner prescribed above that he has obtained a general liability insurance policy of not less than two hundred fifty thousand dollars ($250,000) which is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of an electrical contractor license~~]. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration, or repairs of any electrical wiring on ***his or her***[~~their~~] own premises.

(3) A city,[~~ or~~] county***, urban-county, or consolidated local government shall***[~~ may~~] appoint and ***may*** fix the compensation of city,[~~ or~~] county***, urban-county, or consolidated local government*** electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration, and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National Electric Code. These standards shall be used by the electrical inspector in making his inspections.

Section 17. Effective July 15, 2004, the following KRS sections are repealed:

227.490 Local examination -- Examining board -- Local license -- Disciplinary action.

227.4901 Examination for electrical contractors -- Issuance of electrical contractor examination certificate -- Reports on disciplinary actions against licensed contractors -- Administrative regulations.

The Committee Substitute to **HB 115** is as follows:

HB 115, AN ACT relating to electrical workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 227A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act unless the context otherwise requires:

(1) "Authorized local licensing program" means any city, county, urban-county, charter county, or consolidated local government electrician and electrical contractor licensing program established by local ordinance for the purpose of licensing electrical workers. "Authorized local licensing program" shall include a licensing program established through a cooperative agreement between two (2) or more counties;

(2) "Department" means the Department of Housing, Buildings and Construction;

(3) "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician;

(4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(5) "Master electrician" means any individual licensed to assume responsible charge, supervision, or direction of an electrician engaged in the construction, installation, alteration, or repair of electrical wiring used to furnish heat, light, or power;

(6) "Maintenance worker or maintenance engineer" means a person who is a regular, bona fide employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction over the property where the routine maintenance of electrical systems is being performed;

(7) "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to ensure the proper operation and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems;

(8) "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power; and

(9) "Committee" means the Electrical Advisory Committee as described in KRS 227.530.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) A person who is not licensed as an electrical contractor shall not represent himself or herself to the public as an electrical contractor or use any terms, titles, or abbreviations which express or imply that the person is a licensed electrical contractor.

(2) A person who is not licensed as a master electrician shall not represent himself or herself to the public as a master electrician or use any terms, titles, or abbreviations which express or imply that the person is a licensed master electrician.

(3) A person who is not licensed as an electrician shall not represent himself or herself to the public as an electrician or use any terms, titles, or abbreviations which express or imply that the person is a licensed electrician.

(4) A person who is not licensed as an electrical contractor, electrician, or master electrician shall not engage in any activities or perform any of the duties usually performed by an electrical contractor, electrician, or master electrician unless the unlicensed person is under the direct supervision of a licensed electrician or master electrician who is present on the site where the work is being performed.

(5) An authorized local licensing program in existence on the effective date of this Act may contract with the department to become an agent of the department for purposes of the issuance and renewal of licenses issued pursuant to Sections 1 to 14 of this Act. The department may also contract with local governments that want to become authorized licensing programs.

(6) Sections 1 to 14 of this Act shall supersede all ordinances or regulations regulating electricians, master electricians, and electrical contractors of any city, county, urban-county, charter county, or consolidated local government. This provision shall not affect city, county, urban-county, charter county, or consolidated local government regulations relating to zoning requirements or occupational payroll taxes pertaining to electricians, master electricians, and electrical contractors.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 14 of this Act shall not apply to installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for those purposes or located outdoors on property owned or leased by the utility or on public highways, streets, or roads, or outdoors by established rights on private property.

(2) Nothing in Sections 1 to 14 of this Act shall require that a maintenance worker or maintenance engineer performing routine maintenance of electrical systems be licensed.

(3) Nothing in Sections 1 to 14 of this Act shall prohibit or interfere with the ability of a homeowner or farmer to install or repair electrical wiring on his or her real property.

(4) Nothing in Sections 1 to 14 of this Act shall require that a retailer or its agent engaged in making installations of an appliance purchased at a retail establishment be licensed.

(5) Nothing in Sections 1 to 14 of this Act shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.

(6) Nothing in Sections 1 to 14 of this Act shall preclude the use of unlicensed, nonresident electricians in temporary, emergency, or industrial shutdown situations. Those unlicensed, nonresident electricians shall apply for an electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of thirty (30) days. The license shall be obtained by the temporary, unlicensed, nonresident electricians within sixty (60) days of securing employment.

(7) Nothing in Sections 1 to 14 of this Act shall apply to a person performing work at a surface or underground coal mine or at a coal preparation plant.

(8) Nothing in Sections 1 to 14 of this Act shall apply to a person performing work for a telecommunications company for which the voltage is fifty (50) volts or less.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department, with assistance from the Electrical Advisory Committee, shall administer and enforce the provisions of Sections 1 to 14 of this Act and shall evaluate the qualifications of applicants for licensure.

(2) The department may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of Sections 1 to 14 of this Act or the administrative regulations promulgated under Sections 1 to 14 of this Act and KRS Chapter 13A.

(3) The department shall conduct hearings under KRS Chapter 13B and keep records and minutes necessary to carry out the function of Sections 1 to 14 of this Act.

(4) The department, with assistance from the Electrical Advisory Committee, shall evaluate the qualifications of applicants and issue licenses to qualified candidates.

(5) The department shall renew licenses.

(6) The department may:

(a) Refuse to issue or renew a license;

(b) Suspend or revoke a license;

(c) Impose supervisory or probationary conditions upon a licensee;

(d) Impose administrative disciplinary fines;

(e) Issue written reprimands or admonishments; and

(f) Take any combination of the actions permitted in this subsection.

(7) The department may seek injunctive relief in the Circuit Court of Franklin County, in the county in which the violation occurred, or in the county where the business of the accused is located to stop any unlawful practice in Sections 1 to 14 of this Act and administrative regulations promulgated thereunder. The department may also seek injunctive relief for unlicensed persons who inappropriately use the title "electrical contractor," "electrician," or "master electrician."

(8) The department, with advice from the Electrical Advisory Committee, may promulgate administrative regulations to create a code of ethics and procedures governing the licensure of electrical contractors, electricians, and master electricians.

(9) The department may enter into reciprocal agreements with other states having licensure, certification, or registration qualifications and requirements substantially equal to those of this state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the department under the provisions of Sections 1 to 14 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for use by the department in administering the provisions of Sections 1 to 14 of this Act.

(2) No part of this revolving fund shall revert to the general funds of the Commonwealth.

(3) An authorized local licensing program under Sections 1 to 14 of this Act shall negotiate with the department the amount of the fees to be retained by the authorized local licensing program.

(4) Funds for the initial administration of Sections 1 to 14 of this Act, following the effective date of this Act and to the extent fee income is insufficient to meet actual costs as determined by the chief budget officer for the department, shall be borrowed from surplus trust and agency accounts of the department and repaid without interest over no more than the succeeding two (2) fiscal years.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department shall issue a license as an "electrical contractor" to an applicant who meets the following requirements:

(a) Has paid to the department the application fee not to exceed two hundred dollars ($200) and the appropriate examination fee, which shall not exceed the actual cost of examination;

(b) Has achieved a passing score, as set by the department, on all portions of the examination required by the department. The department shall promulgate administrative regulations to specify who shall take the examination if the applicant is a business entity; and

(c) Has submitted proof that he or she has complied with workers' compensation and unemployment insurance laws and administrative regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars ($500,000).

(2) The department shall issue a license as a "master electrician" to an applicant who meets the following requirements:

(a) Has paid to the department the application fee not to exceed two hundred dollars ($200) and the appropriate examination fee not to exceed the actual cost of the examination;

(b) Has completed:

1. Six (6) years of verifiable experience in the electrical trade; and

2. A training course on electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; and

(c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.

(3) The department shall issue a license as an "electrician" to an applicant who meets the following requirements:

(a) Has paid to the department the application fee not to exceed fifty dollars ($50) and the appropriate examination fee not to exceed the actual cost of the examination;

(b) Has completed:

1. Four (4) years of verifiable experience in the electrical trade; and

2. A training course on electrical work, acceptable to the department, or an additional two (2) years of verifiable experience in the electrical trade; and

(c) Has achieved a passing score, as set by the department, on all portions of the examination required by the department.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Upon application to the department and payment of all applicable fees, the department shall license by endorsement an applicant who is registered, licensed, or certified in another state if the requirements for registration, licensing, or certification in the issuing state are substantially equal to the requirements for licensing in the Commonwealth of Kentucky and the applicant is in good standing in the issuing state. The department shall license an applicant by endorsement only if the issuing state extends similar reciprocity to Kentucky citizens licensed under Sections 1 to 14 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) Upon payment of all applicable fees, an applicant for licensure as a master electrician under Section 6 of this Act making application to the department prior to July 15, 2004, may be licensed by the department without completing the licensure requirements as established in Section 6 of this Act if:

(a) The applicant is currently licensed by a city, county, urban-county, consolidated local government, or the state of Kentucky; or

(b) The applicant is currently licensed, certified, or registered as a master electrician in another state whose standards are substantially equal to those in Section 6 of this Act.

(2) Prior to July 15, 2004, an applicant who does not qualify for licensure under subsection (1) of this section or Section 6 of this Act may qualify for licensure by the following:

(a) An applicant for licensure as an electrical contractor shall qualify by showing a minimum of two (2) years of verifiable experience engaging in the work of an electrical contractor in this state;

(b) An applicant for licensure as a master electrician shall qualify by showing a minimum of six (6) years of verifiable experience as an electrical worker in this state; and

(c) An applicant for licensure as an electrician shall qualify by showing a minimum of four (4) years of verifiable experience as an electrical worker in this state.

Under this subsection, any individual who is currently engaged in the work of an electrical contractor, electrician, or master electrician but who has not been licensed by the state or any locality may qualify for licensure in lieu of requirements in Section 6 of this Act by documenting the appropriate years of experience in his or her respective area.

(3) After July 15, 2004, licensure under this section shall cease.

SECTION 9. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department, with advice from the Electrical Advisory Committee, shall select and approve an examination to be used in determining the competency of persons to be licensed under Sections 1 to 14 of this Act. Examinations selected and approved for each level of licensing shall be nationally recognized examinations which have been determined through proper validation techniques to measure successfully an individual's competency to perform the licensed practice.

(2) The department shall offer the examinations on a regularly scheduled basis in localities determined by the committee. The department shall offer the examinations through any authorized local licensing program.

(3) The department may contract with an outside entity or testing service for the administration of examinations required for licensure.

SECTION 10. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) Each licensee licensed under the provisions of Sections 1 to 14 of this Act shall annually, on or before the anniversary date of the license, pay to the department a renewal fee as established in administrative regulations promulgated by the department.

(2) A sixty (60) day grace period shall be allowed after the anniversary date of the license during which time a licensee may continue to practice and may renew his or her license upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the department.

(3) A license not renewed before the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(4) After the sixty (60) day grace period, a former licensee with a terminated license may have the license reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the department. An applicant for reinstatement after termination of the license shall not be required to submit to any examination as a condition for reinstatement, if the reinstatement application is made within three (3) years from the date of termination.

(5) A suspended license is subject to expiration and termination and shall be renewed as provided in this section. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the department and the right to practice is restored by the department.

(6) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the former licensee shall pay the reinstatement fee as promulgated by administrative regulations under subsection (4) of this section and

the renewal fee as promulgated by administrative regulations under subsection (1) of this section.

(7) The department shall require an applicant for renewal or reinstatement of a license to show evidence of completing at least six (6) hours of continuing education provided by the National Electrical Contractors Association, the Associated Builders and Contractors, the International Brotherhood of Electrical Workers, the Associated General Contractors, the International Association of Electrical Inspectors, the Independent Electrical Contractors Association, the Kentucky Department of Housing, Buildings and Construction, or other provider of instruction approved by the department. The department shall promulgate administrative regulations establishing the content of the programs and the qualifications of the providers.

(8) The department shall require, where applicable, that an applicant for renewal or reinstatement of a license submit proof that the applicant has complied with workers' compensation and unemployment insurance laws and regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars ($500,000).

SECTION 11. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) The department may, following a hearing pursuant to KRS Chapter 13B, impose sanctions specified in Section 4 of this Act upon proof that the licensee has:

  (a) Misrepresented or concealed a material fact in obtaining a license, or in the reinstatement thereof;

  (b) Been incompetent or negligent in the practice of performing electrical work;

  (c) Failed to comply with an order issued by the department or an assurance of voluntary compliance; or

  (d) Violated any provisions of Sections 1 to 14 of this Act and administrative regulations promulgated thereunder.

(2) One (1) year from the date of a revocation, any former licensee whose license has been revoked may petition the department for reinstatement. The department shall investigate the petition and may reinstate the license upon a finding that the applicant has complied with any terms prescribed by the department and is again able to competently engage in the practice of performing electrical work.

(3) At any time during the investigative or hearing processes, the department may enter into an agreed order or accept an assurance of voluntary compliance with the license holder which effectively deals with the complaint.

(4) The department may reconsider, modify, or reverse its probations, suspensions, or other disciplinary actions.

SECTION 12. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Any party aggrieved by a disciplinary action of the department may bring an action in the Circuit Court of Franklin County under the provisions of KRS Chapter 13B.

SECTION 13. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Any person who violates or aids in the violation of any provision of Section 2 of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or sentenced to jail for not less than ten (10) nor more than one hundred eighty (180) days, or both.

SECTION 14. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

(1) A master electrician who ceases to be associated with the electrical contractor and is the representative by which the licensed electrical contractor qualifies shall immediately report his or her disassociation to the department or the authorized local licensing program. The master electrician shall be responsible for all work done under his or her license until the department or the authorized local licensing program is notified by the master electrician that he or she is no longer associated with the electrical contractor.

(2) If the holder of any electrical license ceases to be a part of the business relying upon the holder's license for its right to remain in business, the business shall employ a licensed person prior to the continuance of any business activity or within thirty (30) days, whichever comes first.

Section 15. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any *licensed* individual, partnership, or corporation that *is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician*~~[engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power]~~;

(2) "Electrician" means any person *licensed by the department* who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;

(3) "Electrical" pertains to the installation*, alteration, or repair* of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(4) "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices

and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky; and

(5) "Department" means the Department of Housing, Buildings and Construction.

Section 16. KRS 227.480 is amended to read as follows:

(1) A city*,*[~~ or~~] county***, urban-county, or consolidated local government*** shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits before commencing construction, alteration*,* or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property.

(2) A city*,*[~~ or~~] county***, urban-county, or consolidated local government*** or the state shall not issue a permit unless the applicant submits ***proof of being licensed under Sections 1 to 14 of this Act***[~~, through an affidavit or other means prescribed by the city, county or state, that he has complied with workers' compensation and unemployment insurance laws and regulations. The city or county shall also require the applicant to submit proof in the manner prescribed above that he has obtained a general liability insurance policy of not less than two hundred fifty thousand dollars ($250,000) which is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of an electrical contractor license~~]. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration*,* or repairs of any electrical wiring on ***his or her***[~~their~~] own premises.

(3) A city*,*[~~ or~~] county***, urban-county, or consolidated local government shall***[~~ may~~] appoint and ***may*** fix the compensation of city*,*[~~ or~~] county***, urban-county, or consolidated local government*** electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration*,* and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National Electric Code. These standards shall be used by the electrical inspector in making his inspections.

Section 17. Effective July 15, 2004, the following KRS sections are repealed:

227.490 Local examination -- Examining board -- Local license -- Disciplinary action.

227.4901 Examination for electrical contractors -- Issuance of electrical contractor examination certificate -- Reports on disciplinary actions against licensed contractors -- Administrative regulations.

HB 171, AN ACT relating to labor matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) No employer shall discharge or in any manner discriminate or retaliate against an employee, including but not limited to an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

(2) No employer shall discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence and abuse, as defined in KRS 403.720, for taking time off from work to obtain or attempt to obtain any relief, including but not limited to a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of a domestic violence victim or his or her child.

(3) (a) As a condition of taking time off for a purpose set forth in subsection (2) of this section, the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(b) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

1. A police report indicating that the employee was a victim of domestic violence;

2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the employee has appeared in court; or

3. Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

(c) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subsection (2) of this section.

(4) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the

employee has taken time off for a purpose set forth in subsection (1) or (2) of this section shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a Class B misdemeanor.

(5) (a) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subsection (1) or (2) of this section may file a complaint with the Labor Cabinet.

(b) An employee filing a complaint with the division based upon a violation of subsection (2) of this section shall have one (1) year from the date of occurrence of the violation to file his or her complaint.

(6) An employee may use vacation, personal leave, or compensatory time that is available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subsection (1) or (2) of this section. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the requirements and prohibitions imposed on employees pursuant to Section 1 of this Act, an employer with twenty-five (25) or more employees may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence and abuse as defined in KRS 403.720 for taking time off from work to attend to any of the following:

(a) To seek medical attention for injuries caused by domestic violence;

(b) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence;

(c) To obtain psychological counseling related to an experience of domestic violence; or

(d) To participate in safety planning and take other actions to increase safety from future domestic violence, including temporary or permanent relocation.

(2) (a) As a condition of taking time off for a purpose set forth in subsection (1) of this section, the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(b) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

1. A police report indicating that the employee was a victim of domestic violence;

2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the employee appeared in court; or

3. Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

(c) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subsection (1) of this section.

(3) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subsection (1) of this section shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a Class B misdemeanor.

(4) (a) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subsection (1) of this section may file a complaint with the Labor Cabinet.

(b) An employee filing a complaint with the division based upon a violation of subsection (1) of this section shall have one year from the date of occurrence of the violation to file his or her complaint.

(5) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subsection (1) of this section. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(6) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed

under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2606 et seq.)

The Committee Substitute to **HB 171** is as follows:

HB 171, AN ACT relating to labor matters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) No employer shall discharge or in any manner discriminate or retaliate against an employee, including but not limited to an employee who is a victim of a crime, for taking time off to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.

(2) No employer shall discharge or in any manner discriminate or retaliate against an employee who is a victim of:

(a) Domestic violence and abuse, as defined in KRS 403.720;

(b) Stalking, pursuant to KRS 508.130; or

(c) Sexual assault

for taking time off from work to obtain or attempt to obtain any relief, including but not limited to an emergency protective order, domestic violence order, or other injunctive relief, to help ensure the health, safety, or welfare of a victim of a domestic violence, stalking or sexual assault, or his or her child.

(3) (a) As a condition of taking time off for a purpose set forth in subsection (2) of this section, the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(b) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time not to exceed thirty (30) days after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

1. A police report indicating that the employee was a victim of domestic violence, stalking or sexual assault;

2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, stalking or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court; or

3. Documentation from a medical professional, victim advocate, health care provider, or counselor that the employee was receiving services for physical or mental injuries or abuse resulting in victimization from an act of domestic violence, stalking or sexual assault.

(c) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subsection (2) of this section.

(4) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subsection (1) or (2) of this section shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a Class B misdemeanor.

(5) (a) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subsection (1) or (2) of this section may file a complaint with the commissioner.

(b) An employee filing a complaint with the commissioner based upon a violation of subsection (2) of this section shall have one year from the date of occurrence of the violation by the employer to file his or her complaint.

(6) An employee may use vacation, personal leave, or compensatory time that is available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subsection (1) or (2) of this section. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the requirements and prohibitions imposed pursuant to Section 1 of this Act, an employer with twenty-five (25) or more employees may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence and abuse as defined in KRS 403.720, a victim of stalking pursuant to KRS 508.130, or a victim of sexual assault for taking time off from work to attend to any of the following:

(a) To seek medical attention for injuries caused by domestic violence, stalking, or sexual assault;

(b) To obtain services from a domestic violence shelter, program, or rape crisis center;

(c) To obtain psychological counseling related to an experience of domestic violence, stalking, or sexual assault; or

(d) To participate in safety planning and take other actions to increase safety from future domestic violence, stalking, or sexual assault, including temporary or permanent relocation.

(2) (a) As a condition of taking time off for a purpose set forth in subsection (1) of this section, the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(b) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time not to exceed thirty (30) days after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

1. A police report indicating that the employee was a victim of domestic violence, stalking, or sexual assault;

2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, stalking, or sexual assault, or other evidence from the court or prosecuting attorney that the employee appeared in court; or

3. Documentation from a medical professional, victim advocate, health care provider, or counselor that the employee was receiving services for physical or mental injuries or abuse resulting from an act of domestic violence, stalking, or sexual assault.

(c) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subsection (1) of this section.

(3) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subsection (1) of this section shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a Class B misdemeanor.

(4) (a) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subsection (1) of this section may file a complaint with the commissioner.

(b) An employee filing a complaint with the commissioner based upon a violation of subsection (1) of this section shall have one year from the date of occurrence of the violation by the employer to file his or her complaint.

(5) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subsection (1) of this section. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(6) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. sec. 2612.)

HB 221, AN ACT relating to workplace violence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section the term "workplace violence" means the attempted, threatened, or actual conduct of a person who endangers or is likely to endanger the health and safety of a public or private sector employee or the general public, or a threatening statement, harassment, or behavior that gives an employee or member of the general public reasonable cause to believe that his health or safety is at risk. Examples of workplace violence shall include, but not be limited to, the following:

(a) Threatening to harm an employee or member of the general public;

(b) Brandishing or displaying a weapon or an object that looks like a weapon in a manner which would present a safety risk to an employee or a member of the general public, or threatens or intimidates them;

(c) Intimidating, threatening, or directing abusive language toward another person, either verbally, in writing, or by gesture;

(d) Stalking;

(e) Striking, slapping or otherwise physically attacking another person; and

(f) Disobeying or failing to follow the reasonable directive of a supervisor to cease actions which create a risk to the health and safety of a state employee or member of the general public or which threaten or intimidate them.

(2) If an employer or that employer's employee has been subject to an act of workplace violence as defined in subsection (1) of this section by any individual, and the act of workplace violence has been carried out at the work site or can reasonably be construed to have been carried out at the work site, the employer may seek a restraining order pursuant to Rule 65.03 of the Kentucky Rules of Civil Procedure prohibiting further acts of workplace violence at the work site on behalf of himself or his employee. The work site shall include any place that work is being performed on behalf of the employer. The employer may seek a restraining order by petitioning the Circuit Court having jurisdiction in the county in which the work site where the alleged act occurred is located.

(3) A petition filed under subsection (2) of this section shall be verified and shall contain:

(a) The name, age, address, occupation, and residence of the petitioner;

(b) The name, age, address, occupation, and residence of the person or persons alleged to have engaged in acts of workplace violence;

(c) The facts and circumstances which constituted the alleged workplace violence;

(d) The nature and extent of any injuries sustained by the employer, the employer's employee or fellow employees as a result of the act of workplace violence; and

(e) Any evidence indicating why the employer, the employer's employee, or the employer's operations may be immediately and irreparably harmed if a restraining order is not granted.

(4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief under this section by the circuit clerk or another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and county or Commonwealth's attorneys. All petitions requested, completed and signed by a person seeking protection under this section shall be accepted and filed.

(5) Notwithstanding any provision of the law to the contrary, no filing fee or court costs shall be assessed against the petitioner in connection with filing a petition under the provisions of this section.

(6) Upon the filing of a petition, as provided for in subsections (2) to (5) of this section, the court, after review of the petition and determining that workplace violence has occurred, without a jury, shall provide temporary injunctive relief. If after review of the petition, the court determines that the allegations contained in the petition indicate the presence of an immediate and present danger to the employer, the employer's employee or fellow employees, or the employer's operations, the court shall issue a restraining order.

(7) (a) All courts shall provide twenty-four (24) hour access to petition for restraining orders; and

(b) Each court shall submit written procedures for twenty-four (24) hour accessibility to be reviewed and approved by the Kentucky Supreme Court.

(8) If a restraining order is not issued, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

(9) A restraining order granted under this section shall become effective and binding on the respondent at the time of personal service or when the respondent is given notice of the existence and terms of the order by a peace officer or the court, whichever is earlier. After notice of the existence and terms of the order is given to the respondent, a peace officer or the court may enforce the terms of the order, and act immediately upon any violation of the order. After notice of the order, all reasonable efforts shall be made by the peace officer or the court to arrange for personal service of the order upon the respondent.

(10) All forms, affidavits, restraining orders, or orders amending existing orders or other orders issued under this section, or the laws of another jurisdiction which are entitled to full faith and credit in Kentucky under the provisions of 18 U.S.C. sec. 2265, which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice Cabinet. If the provisions of the restraining order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

(11) A restraining order granted under this section shall remain in effect for a period not to exceed thirty (30) days unless modified or terminated by the court.

(12) Within ten (10) days of issuing a restraining order, the court shall hold a hearing. At the hearing, the court shall receive evidence from the adverse party denying or explaining the party's actions, or the party may file a cross-complaint. At the hearing, if the adverse party is a current employee of the employer, the court may receive evidence concerning the employer's decision to retain, terminate or otherwise discipline the adverse party. A restraining order shall be reissued for a period not to exceed thirty (30) days if service has not been made on the adverse party by the date of the hearing.

(13) The adverse party shall be personally served with a copy of the restraining order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by persons authorized to serve subpoenas under the provisions of Rule 45.03 of the Kentucky Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

(14) Following the issuance of a restraining order under this section, if the judge who issued the order is absent from the district, otherwise unavailable, or unable to conduct proceedings regarding the enforcement, violation, or modification of the order within a reasonable time, the proceedings shall be conducted by any District or Circuit Judge.

(15) Upon granting a restraining order the court may, among other appropriate orders:

  (a) Order the adverse party not to visit, assault, molest or otherwise interfere with the employer, the employee injured by the adverse party, or other employees at the work site or the employer's operations;

  (b) Order the adverse party to reimburse the employee injured by the adverse party for any reasonable medical expenses, including counseling costs;

  (c) Order the adverse party to reimburse the employer for any damages to the employer's worksite;

  (d) Order the adverse party not to possess any weapon or device as defined in KRS 527.010;

  (e) Order the adverse party to limit intentional contact with the employee injured by the adverse party, to the extent practicable, if both parties remain employed at the same work site;

  (f) Order the adverse party to cease stalking or harassing the employer's employee at the work site;

  (g) Order the adverse party not to telephone or transmit e-mail to the employer or the employer's employee at the work site; and

  (h) Any other appropriate relief deemed necessary by the court.

(16) Unless specifically modified or terminated by the court, all orders granted under this section shall have statewide validity and may be enforced by the issuing court for any violation anywhere in the state and by any court of competent jurisdiction within the state for violations which may occur within that court's jurisdiction. All orders issued under this section shall contain language directing appropriate law enforcement agencies to enforce the court's orders.

(17) Provisions of this section shall not be applicable in circumstances where an employee or the employee's representative is engaged in union organizing, union activity, a labor dispute, or any activity or action arguably protected by the National Labor Relations Act.

(18) Unless lack of good faith is shown by clear and convincing evidence, an employer and an employer's agent who act in accord with this section shall be presumed to be acting in good faith.

(19) A person is guilty of a violation if the person intentionally violates any order issued under this section with which he has been served or had been given notice.

(20) Violation of a restraining order under this section is a Class A misdemeanor.

The Committee Substitute to **HB 221** is as follows:

HB 221, AN ACT relating to workplace violence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 2 of this Act the term "workplace violence" means the attempted, threatened, or actual conduct of a person who endangers or is likely to endanger the health and safety of a public or private sector employee or the general public, or a threatening statement, harassment, or behavior that gives an employee or member of the general public reasonable cause to believe that his health or safety is at risk. Examples of workplace violence shall include but not be limited to the following:

(1) Threatening to harm an employee or member of the general public;

(2) Brandishing or displaying a weapon or an object that looks like a weapon in a manner which would present a safety risk to an employee or a member of the general public, or threatens or intimidates them;

(3) Intimidating, threatening, or directing abusive language toward another person, either verbally, in writing, or by gesture;

(4) Stalking;

(5) Striking, slapping or otherwise physically attacking another person; and

(6) Disobeying or failing to follow the reasonable directive of a supervisor to cease actions which create a risk to the health and safety of a state employee or member of the general public or which threaten or intimidate them.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) If an employer, or an employer's employees or invitees have suffered unlawful violence by an individual, or received a threat of violence from an individual which can reasonably be construed as a threat which may be carried out at the worksite, or been stalked or harassed at the worksite, the employer may, in addition to, or instead of, filing criminal charges against the individual, seek a restraining order pursuant to Rule 65.03 of the Kentucky Rules of Civil Procedure, prohibiting further unlawful acts by that individual at the worksite, which shall include any place at which work is being performed on behalf of the employer.

(2) Proof by affidavit in an ex parte hearing, or by a preponderance of the evidence in any other hearing of any action described in Section 1 of this Act or this section shall constitute irreparable harm or damage to the employer, or the employer's employees or invitees. Upon granting of any restraining order, the court may, among other appropriate orders:

(a) Order the defendant not to visit, assault, molest, or otherwise interfere with the employer or the employer's operations, or the employer's employees or invitees at the employer's worksite;

(b) Order the defendant to cease stalking the employer's employees or invitees at the employer's worksite;

(c) Order the defendant to cease harassment of the employer or the employer's employees or invitees at the employer's worksite;

(d) Order the defendant not to abuse or injure the employer, including the employer's property, or the employer's employees or invitees at the employer's worksite;

(e) Order the defendant not to telephone or transmit e-mail to the employer or the employer's employees or invitees at the employer's worksite;

(f) Order the defendant to reimburse the employer for any damages to the employer's worksite;

(g) Order the defendant not to possess any weapon or device as defined in KRS 527.010;

(h) Order the defendant to limit intentional contact with the employee harmed by the defendant, to the extent practicable, if both parties remain employed at the same worksite; and

(i) Order other necessary and appropriate relief as deemed appropriate in the discretion of the court.

(3) When necessary to protect the employer or the employer's employees, invitees, or property, and when authorized by the court, restraining orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or police officer, or other officer whose duty it is to preserve the peace, with appropriate orders to those officials to enforce the court's order.

(4) All orders issued pursuant to the provisions of this section shall have statewide validity, unless specifically modified or terminated by the issuing judge, and may be enforced by the issuing court for any violation anywhere in the state, and by any court of competent jurisdiction within the state for violations which may occur within that court's jurisdiction.

(5) Notwithstanding any provision of the law to the contrary, no filing fee or court costs shall be assessed against the petitioner in connection with filing a petition under the provisions of this section.

(6) If a restraining order is not issued, the court shall note on the petition, for the record, any action taken or denied and the reason for it.

(7) A restraining order granted under this section shall remain in effect for a period not to exceed thirty (30) days unless modified or terminated by the court.

(8) An employer and an employer's agents who act in accord with the provisions of this section shall be presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, are immune from civil liability for actions taken under this section.

(9) Any employer, or his or her employees or invitees, who do not utilize the procedures authorized by this section, shall not be liable for negligence nor shall evidence of not utilizing the procedures authorized by this section be admissible as evidence of negligence.

(10) Provisions of this section shall not be applicable in circumstances where an employee or the employee's representative is engaged in union organizing, union activity, a labor dispute, or any activity or action arguable protected by the National Labor Relations Act.

HB 228, AN ACT relating to credit card solicitations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context indicates otherwise:

(1) "College campus" means the premises and grounds of an institution of postsecondary education.

(2) "Credit card" means a writing, number, or other evidence of an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

(3) "Credit card issuer" means a person, corporation, financial institution, or business entity that offers and issues credit cards.

(4) "Institution of postsecondary education" means an institution in the "postsecondary education system" as defined in KRS 164.001 or a "college" as defined in KRS 164.945.

(5) "Solicitation" means an act of asking, enticing, or requesting a student to read, review, or consider materials relating to an application for a credit card or to complete an application for a credit card.

(6) "Student" means a person who is under twenty-one (21) years of age and who attends an institution of postsecondary education, whether enrolled on a full-time or part-time basis.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Prior to engaging in the solicitation of a student on a college campus, a credit card issuer shall register its intent to solicit the student for that purpose with an appropriate official of the institution of postsecondary education. The registration shall include the principal place of business of the credit card issuer and shall be in such form as required by administrative regulations of the Council on Postsecondary Education.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

An application for a credit card executed by a student who was solicited for the credit card on a college campus shall be void and unenforceable unless the parent or legal guardian of the student consents in writing to the student's submission of the application to the credit card issuer. Parental consent under this section shall not be construed as an agreement by the parent or legal guardian to be liable under the credit card agreement unless the parent or legal guardian specifically agrees in writing to do so.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for a credit card issuer to take any debt collection action against the parent or legal guardian of a student to whom a credit card has been issued unless the parent or legal guardian has agreed in writing to be liable for the debts of the student under the credit card agreement. A violation of this section shall be construed as an unlawful trade practice under KRS 367.170.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful to offer gifts or other promotional incentives on a college campus to any student through direct face-to-face contact in order to entice the student to apply for a credit card. Prior to any personal solicitation of credit card applications in or on a college campus in which gifts or any other promotional incentives are offered, the credit card issuer shall verify the identity and age of the student by review of a valid driver's license or other credible identification bearing a photograph of the student. This subsection shall not apply to the solicitation of a credit card application by a bank or credit union located on the campus, if the solicitation is made within its office.

(2) It shall be unlawful to issue a credit card to any student whose application for credit is obtained as a result of actions prohibited by this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

This Act shall be known and may be cited as the College Campus Credit Card Solicitation Act.

The Committee on State Government reported **HB 4, HB 6, HB 24,** with Committee Substitute attached thereto, **HB 42, HB 53,** with Committee Substitute attached thereto, **HB 61,** with Committee Substitute attached thereto, **HB 81,** with Committee Substitute attached thereto, **HB 95,** with Committee Substitute attached thereto, **HB 163, HB 296, HB 317,** and **HCR 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to capital projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 164A.555 TO 164A.630 IS CREATED TO READ AS FOLLOWS:

Absent General Assembly authorization in a Regular or Extraordinary Session or in accordance with Section 3 of this Act, the governing board of an institution shall not sell, give, lease, or in any other way transfer any real property or facility with a value in excess of four hundred thousand dollars ($400,000) to any corporate, governmental, or other entity if the terms of the agreement provide that after the sale, gift, lease, or other transfer the real property or facility may or will be used primarily to benefit the institution or its students and continues to function as part of the institution's programs or operations.

(1) The selling price of the real property or the facility shall not be less than its appraised value as determined by the Finance and Administration Cabinet.

(2) The terms of a lease agreement for the property or the facility shall be fair and reasonable as determined by the Finance and Administration Cabinet.

SECTION 2. A NEW SECTION OF KRS 164A.555 TO 164A.630 IS CREATED TO READ AS FOLLOWS:

(1) Prior to entering into an agreement to transfer any real property or facility as described in Section 1 of this Act, an institution shall submit the proposed agreement to the secretary of the Finance and Administration Cabinet for a written determination as to whether the proposed agreement is subject to the provisions of Section 1 of this Act. The proposed agreement and subsequent determination shall be provided by the institution to the Council on Postsecondary Education.

(2) If the proposed agreement is deemed to be subject to the provisions of Section 1 of this Act, the proposed transfer shall be submitted for General Assembly authorization or in accordance with Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS 164A.555 TO 164A.630 IS CREATED TO READ AS FOLLOWS:

(1) An institution's proposed transfer as described in Section 1 of this Act or proposed agreement as described in Section 5 of this Act may be authorized even though it is not specifically listed in any branch budget, statutory budget memorandum, or biennial budget report subject to the following:

(a) Affirmative review and approval by the secretary of the Finance and Administration Cabinet and the governing board of the Council on Postsecondary Education. The secretary's review shall include an analysis of the proposal's impact on the state debt capacity; and

(b) The entity head as defined in KRS 45.750(1)(j) shall submit the proposed transfer to the Capital Projects and Bond Oversight Committee for review and action. The entity head shall provide documentation as to why legislative authorization during the interim between sessions is necessary. The entity head shall also provide a copy of any proposed agreement, the review prescribed under paragraph (a) of this subsection, all relevant financial documents, and any other information the committee may request.

1. Within thirty (30) days of receiving the proposal, the committee shall either approve or disapprove the proposal and shall notify the institution immediately of its decision.

2. If the committee does not approve the proposal, the entity head shall revise the proposal to comply with the committee's objection, cancel the proposal, or by written decision of the entity head determine to implement the transfer over the committee's objection.

3. The determination made by the entity head shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(2) The institution's proposal shall not use, directly or indirectly, any funds appropriated by the General Assembly to that institution to cover any costs incurred by the corporate, governmental, or other entity, for construction, maintenance, operation, administration, or debt service relating to the real property or facility to be transferred without a specific General Assembly authorization.

SECTION 4. A NEW SECTION OF KRS 164A.555 TO 164A.630 IS CREATED TO READ AS FOLLOWS:

(1) Any corporate, governmental, or other entity that receives any real property or facility under subsection (2) of Section 2 of this Act or under Section 3 of this Act shall submit an annual audited financial report pertaining to the financial operations of the real property or facility transferred to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the institution, and the president of the Council on Postsecondary Education. The audits shall be prepared in accordance with generally accepted accounting principles by certified accountants. The Auditor of Public Accounts shall prescribe the minimum scope of the audits.

(2) If a corporate, governmental, or other entity proposes to undertake a project involving real property or facility received under subsection (2) of Section 2 of this Act, or pursuant to an authorization under Section 3 or Section 5 of this Act, the entity shall be subject to the following statutes as they relate to the proposed project:

(a) KRS Chapter 7A, as it relates to capital planning. The entity shall submit the project to the institution to be included in the institution's plan for submission to the Capital Planning Advisory Board;

(b) KRS 48.050 and 164.020(11), as they relate to capital project requests;

(c) KRS Chapter 45A, as it relates to the procurement of construction services;

(d) KRS 164A.590, as it relates to the contracting for architectural and engineering services;

(e) KRS 337.505 to 337.550; and

(f) KRS 61.800 to 61.884 and 61.991.

Section 5. KRS 45.763 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, any state agency as defined in KRS 7A.010, institution of higher education defined as an institution in KRS 164A.550, or affiliated corporation as defined in KRS 164A.550, shall obtain authorization from the General Assembly prior to entering into an agreement identified in subsection (2) of this section. The General Assembly authorization shall occur only when the General Assembly enacts legislation specifically authorizing the agreement.

(2) General Assembly authorization shall be required for an agreement for the use, purchase, or acceptance of real property of any value, or equipment with a value in excess of four hundred thousand dollars (\$400,000), *or to have capital construction with a value in excess of four hundred thousand dollars (\$400,000) performed,* if:

(a) The agreement provides that the state, a state agency, institution of higher education, or affiliated corporation *may or* will become the owner of the real property or equipment at any time*, or will benefit from the capital construction*; and

(b) All or any portion of the purchase price of the real property or equipment*, or the capital construction,* is funded through the issuance of a financial instrument which requires payment of principal and interest over time, including, but not limited to, notes, bonds, securities, and certificates of participation, regardless of the identity of the issuer.

Section 6. KRS 61.805 is amended to read as follows:

As used in KRS 61.805 to 61.850, unless the context otherwise requires:

(1) "Meeting" means all gatherings of every kind, including video teleconferences, regardless of where the meeting is held, and whether regular or special and informational or casual gatherings held in anticipation of or in conjunction with a regular or special meeting;

(2) "Public agency" means:

(a) Every state or local government board, commission, and authority;

(b) Every state or local legislative board, commission, and committee;

(c) Every county and city governing body, council, school district board, special district board, and municipal corporation;

(d) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;

(e) Any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government;

(f) Any entity when the majority of its governing body is appointed by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (g), or (h) of this subsection, a member or employee of a "public agency," a state or local officer, or any combination thereof;

(g) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, and controlled by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (f), or (h) of this subsection;~~[and]~~

(h) Any interagency body of two (2) or more public agencies where each "public agency" is defined in paragraph (a), (b), (c), (d), (e), (f), or (g) of this subsection; ***and***

(i) Any corporate, governmental, or other entity, to the extent subject to subsection (2)(f) of Section 4 of this Act;

(3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body; and

(4) "Member" means a member of the governing body of the public agency and does not include employees or licensees of the agency.

(5) "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment.

Section 7. KRS 61.870 is amended to read as follows:

As used in KRS 61.872 to 61.884, unless the context requires otherwise:

(1) "Public agency" means:

(a) Every state or local government officer;

(b) Every state or local government department, division, bureau, board, commission, and authority;

(c) Every state or local legislative board, commission, committee, and officer;

(d) Every county and city governing body, council, school district board, special district board, and municipal corporation;

(e) Every state or local court or judicial agency;

(f) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;

(g) Any body created by state or local authority in any branch of government;

(h) Any body which derives at least twenty-five percent (25%) of its funds expended by it in the Commonwealth of Kentucky from state or local authority funds;

(i) Any entity where the majority of its governing body is appointed by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of this subsection; by a member or employee of such a public agency; or by any combination thereof;

(j) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff, established, created, and controlled by a public agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this subsection;~~[and]~~

(k) Any interagency body of two (2) or more public agencies where each public agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of this subsection; ***and***

(l) Any corporate, governmental, or other entity, to the extent subject to subsection (2)(f) of Section 4 of this Act;

(2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or

retained by a public agency. "Public record" shall not include any records owned or maintained by or for a body referred to in subsection (1)(h) of this section that are not related to functions, activities, programs, or operations funded by state or local authority;

(3) (a) "Software" means the program code which makes a computer system function, but does not include that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system.

(b) "Software" consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency;

(4) (a) "Commercial purpose" means the direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee.

(b) "Commercial purpose" shall not include:

1. Publication or related use of a public record by a newspaper or periodical;
2. Use of a public record by a radio or television station in its news or other informational programs; or
3. Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties;

(5) "Official custodian" means the chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care and keeping of public records, regardless of whether such records are in his actual personal custody and control;

(6) "Custodian" means the official custodian or any authorized person having personal custody and control of public records;

(7) "Media" means the physical material in or on which records may be stored or represented, and which may include, but is not limited to paper, microform, disks, diskettes, optical disks, magnetic tapes, and cards; and

(8) "Mechanical processing" means any operation or other procedure which is transacted on a machine, and which may include, but is not limited to a copier, computer, recorder or tape processor, or other automated device.

Section 8. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

(a) Contractual services where no competition exists;
(b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
(c) Instructional materials available from only one (1) source;
(d) Where rates are fixed by law or ordinance;
(e) Library books;
(f) Commercial items that are purchased for resale;
(g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
(h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
(i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

(7) ***Except as provided in Section 1 of this Act,*** the governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable

consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) For capital construction projects, the bidding may be on a total design-bid basis, a package system commonly referred to as "turnkey," or construction management, whichever in the judgment of the board offers the lowest real cost to the taxpayer. Bids shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

(13) The acquisition and disposition of real property for the University of Kentucky Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval.

Section 9. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, ***any corporate or other entity to the extent subject to subsection (2)(e) of Section 4 of this Act,*** and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

HB 6, AN ACT relating to the Capital Construction and Equipment Purchase Contingency Account.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.770 is amended to read as follows:

(1) There is created within the capital construction fund the capital construction and equipment purchase contingency account. The account shall consist of moneys appropriated to the account by the General Assembly.

(2) Money in the capital construction and equipment purchase contingency account may be transferred to the allotment account of a capital construction project, authorized by the General Assembly under KRS 45.760, subject to the following conditions and procedures:

(a) Except as provided in paragraphs (b) and (c) of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency account to the allotment account of an authorized project shall not exceed an amount equal to fifteen percent (15%) of the estimated cost of the project, for that biennium, approved by the General Assembly in the manner provided by KRS 45.760.

(b) Subject to paragraph (c) of this subsection, if the cost of an authorized project exceeds, by more than fifteen percent (15%), its estimated cost, as approved by the General Assembly, due to an unforeseen decision by a federal or state court or regulatory agency, moneys in excess of fifteen percent (15%) of the estimated cost of the project may be transferred from the capital construction and equipment purchase contingency account to the allotment account of the project.

(c) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review as provided by KRS 45.800. Presentation of a proposed transfer under paragraph (b) of this subsection shall include written certification to the committee from the commissioner of the Department for Facilities Management, Finance and Administration Cabinet, that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.

(3) Money in the capital construction and equipment purchase contingency account may be transferred to the allotment account of a major item of equipment, authorized by the General Assembly under KRS 45.760, for expenditure on that item subject to the following conditions and procedures:

(a) Except as provided in paragraphs (b) and (c) of this subsection, during any biennium, the amount that may be transferred from the capital construction and equipment purchase contingency account to the allotment account of an authorized major item of equipment shall not exceed an amount equal to fifteen percent (15%) of the estimated cost of the item, for that biennium, approved by the General Assembly in the manner provided by KRS 45.760.

(b) If the cost of an authorized major item of equipment exceeds, by more than fifteen percent (15%), its estimated cost, as approved by the General Assembly, due to an unforeseen decision by a federal or state court or regulatory agency, moneys in excess of fifteen percent (15%) of the estimated cost may be transferred from the capital construction and equipment purchase contingency account to the allotment account of the item.

(c) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review as provided by KRS 45.800. Presentation of a proposed transfer under paragraph (b) of this subsection shall include written certification to the committee from the secretary of the Finance and Administration Cabinet that the transfer is necessitated by cost increases resulting from an unforeseen decision by a federal or state court or regulatory agency.

(4) ***Money in the capital construction and equipment purchase contingency account may be transferred to a capital project account to be used for nonrecurring moving expenses of state agencies to address issues of public health and safety or***

governmental efficiency, subject to the following conditions and procedures:

(a) The Finance and Administration Cabinet shall, prior to making any transfer under this subsection, present the proposed transfer to the Capital Projects and Bond Oversight Committee, at least fourteen (14) days prior to the committee meeting, for review as provided by KRS 45.800;

(b) Presentation of a proposed transfer shall include written certification to the committee from the secretary of the Finance and Administration Cabinet that the moving costs are nonrecurring, and describing the specific benefits, including but not limited to fiscal and efficiency savings associated with the proposal; and

(c) No transfer shall be used for capital improvements.

(5) No later than thirty (30) days after a project has been accepted by the Commonwealth of Kentucky and the contracts encumbered against that project have been closed, moneys constituting the available balance in the project or equipment account shall be transferred as follows:

(a) If the project was a line item in the budget and not funded with road funds, then the balance shall be transferred to the capital construction surplus account.

(b) If the project was a line item in the budget and funded with road funds, then the balance shall be transferred to the road fund surplus account.

(c) If the project was completed within the biennium in which it was authorized, and if the project was funded from a major maintenance pool, then the balance shall be transferred to that major maintenance pool.

(d) If the project was not completed within the biennium in which it was authorized, without being expressly reauthorized by a succeeding session of the General Assembly, then the balance shall be transferred to the capital construction surplus account.

HB 24, AN ACT relating to the underground railroad.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

(1) "Commission" means the Kentucky African-American Heritage Commission.

(2) "Council" means the Underground Railroad Advisory Council established in Section 3 of this Act.

(3) "Underground railroad" means the aided escape of African-American slaves from or through Kentucky.

SECTION 2. A NEW SECTION OF KRS 171.800 TO 171.830 IS CREATED TO READ AS FOLLOWS:

The commission shall coordinate Kentucky's underground railroad initiative in accordance with Section 4 of this Act. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the underground railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky underground railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the Tourism Development Cabinet, a program of public information, education, and promotion of the history of the underground railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the Tourism Development Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect underground railroad sites in Kentucky and neighboring states;

(5) Consider the council's recommendations, and contingent on review by the council, present to the secretary of the Education, Arts, and Humanities Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

SECTION 3. A NEW SECTION OF KRS 171.800 TO 171.830 IS CREATED TO READ AS FOLLOWS:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of eleven (11) members, as follows:

(a) Secretary of the Education, Arts, and Humanities Cabinet, or designee;

(b) Secretary of the Tourism Development Cabinet, or designee;

(c) Secretary of the Transportation Cabinet, or designee;

(d) Director of the Kentucky Historical Society, or designee;

(e) State historic preservation officer of the Kentucky Heritage Council, or designee;

(f) Chair of the commission or designee;

(g) Director of the Underground Railroad Institute at Georgetown College, or designee;

(h) Two (2) members of the General Assembly who hold an interest in the underground railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(i) Two (2) at-large representatives who hold an interest in the protection, preservation and promotion of the history of the underground railroad in Kentucky, appointed by the Governor.

(2) The duties of the council shall be to:

(a) Advise and assist the commission with respect to issues and opportunities related to the underground railroad; and

(b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 4. KRS 171.805 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.

(2) The duties and functions of the commission shall be to:

(a) Advise the secretary of the Education, Arts, and Humanities Cabinet and agencies within the cabinet on matters relating to African-American heritage.

(b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.

(c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.

(d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.

(e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.

(f) Coordinate an initiative to protect, preserve, and promote the history of the underground railroad in Kentucky, in accordance with Section 2 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

The Education, Arts, and Humanities Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the underground railroad in Kentucky in accordance with Sections 1, 2, 3, and 4 of this Act. The Secretary of the Education, Arts, and Humanities Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with subsection (5) of Section 2 of this Act, and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 6. This Act shall be implemented by the Kentucky African-American Heritage Commission to the extent that grant funds can be secured or funds from federal, state, or local agencies are available for the purposes of this Act.

The Committee Substitute to **HB 24** is as follows:

HB 24, AN ACT relating to the Underground Railroad.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

(1) "Commission" means the Kentucky African-American Heritage Commission.

(2) "Council" means the Underground Railroad Advisory Council established in Section 3 of this Act.

(3) "Underground Railroad" means the escape of African-American slaves from or through Kentucky.

SECTION 2. A NEW SECTION OF KRS 171.800 TO 171.830 IS CREATED TO READ AS FOLLOWS:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with Section 4 of this Act. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the Tourism Development Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the Tourism Development Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;

(5) Consider the council's recommendations, and contingent on review by the council, present to the secretary of the Education, Arts, and Humanities Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

SECTION 3. A NEW SECTION OF KRS 171.800 TO 171.830 IS CREATED TO READ AS FOLLOWS:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of eleven (11) members, as follows:

(a) Secretary of the Education, Arts, and Humanities Cabinet, or designee;

(b) Secretary of the Tourism Development Cabinet, or designee;

(c) Secretary of the Transportation Cabinet, or designee;

(d) Director of the Kentucky Historical Society, or designee;

(e) State historic preservation officer of the Kentucky Heritage Council, or designee;

(f) Chair of the commission or designee;

(g) Director of the Underground Railroad Institute at Georgetown College, or designee;

(h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(i) Two (2) at-large representatives who hold an interest in the protection, preservation and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor.

(2) The duties of the council shall be to:

(a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and

(b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 4. KRS 171.805 is amended to read as follows:

(1) The Kentucky African-American Heritage Commission shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's African-American heritage.

(2) The duties and functions of the commission shall be to:

(a) Advise the secretary of the Education, Arts, and Humanities Cabinet and agencies within the cabinet on matters relating to African-American heritage.

(b) Encourage other public and private agencies within the areas of the arts, the humanities, and the sciences to incorporate the African-American influence when developing programs on the history and heritage of Kentucky.

(c) Represent a network of groups and individuals interested or involved in promoting awareness of African-American heritage in Kentucky.

(d) Advocate the preservation, conservation, and interpretation of significant buildings, sites, neighborhoods, documents, artifacts, and lifeways that represent and embody African-American heritage.

(e) Recognize and sanction projects which advance wider knowledge of African-Americans' impact on life in Kentucky.

(f) Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with Section 2 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

The Education, Arts, and Humanities Cabinet shall be charged with the purpose of protecting, preserving, and promoting the history of the Underground Railroad in Kentucky in accordance with Sections 1, 2, 3, and 4 of this Act. The Secretary of the Education, Arts, and Humanities Cabinet shall receive an annual report from the Kentucky African-American Heritage Commission in accordance with subsection (5) of Section 2 of this Act, and shall review and submit the annual report to the Governor and the Legislative Research Commission for distribution to the appropriate committees.

Section 6. This Act shall be implemented by the Kentucky African-American Heritage Commission to the extent that grant funds can be secured or funds from federal, state, or local agencies are available for the purposes of this Act.

HB 42, AN ACT relating to establishment of a capital renewal account.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and determines that protecting investments of public funds in state-owned facilities through planned major maintenance of these facilities is of critical importance to the Commonwealth of Kentucky. The General Assembly further recognizes that minimizing deterioration of state-owned facilities, limiting the effects of cost inflation associated with the deferral of necessary major maintenance and repair, and assuring that facilities comply with necessary health and safety requirements requires a proactive policy to protect the public investment. It is the intent of the General Assembly to create a capital renewal account.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the capital construction fund the capital renewal account. The capital renewal account shall consist of moneys appropriated to the account by the General Assembly or deposited pursuant to subsections (4), (5), and (6) of this section. Moneys in the account shall be invested in accordance with KRS 42.500.

(2) No facility with a value of four hundred thousand dollars ($400,000) or more shall be acquired by a state agency or postsecondary institution by any means including construction, purchase, gift, or bequest absent either an appropriation or deposit to the capital renewal account pursuant to subsection (4) or (5) of this section. Within the capital renewal account, a separate allotment or project account shall be established for each facility.

(3) Moneys in the capital renewal account shall only be expended for major maintenance projects costing four hundred thousand dollars ($400,000) or more for facilities for which amounts have been deposited to the capital renewal account.

(4) Beginning with the 2004-2006 budget preparation cycle and continuing for each budget thereafter, the branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include an amount equal to two percent (2%) of the facility's project scope for every facility as described in subsection (2) of this section for purposes of funding the capital renewal account for that project.

(5) Subsequent to enactment of the 2004-2006 budget, each facility that is not authorized during a regular or extraordinary session of the General Assembly and that is established pursuant to KRS 45.760(14) shall have deposited to the capital renewal account annually an amount equal to two percent (2%) of the facility's project scope.

(6) After the initial authorization and funding for each facility pursuant to subsection (4) or (5) of this section, the branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a recommendation in subsequent bienniums to appropriate or deposit annually to the capital renewal account for that facility additional amounts equal to two percent (2%) of the facility's project scope.

(7) To the extent possible, the source of funds for appropriations or deposits made under subsections (4), (5), and (6) of this section shall be from the same fund source, or represent the same proportion of fund sources, as the fund source for the recommended project authorization, except that moneys from the general fund shall be used for projects authorized from general fund-supported debt and restricted funds may be used for projects authorized from any other fund source. If funds are provided other than from the general fund to the capital renewal account, such funds shall be transferred from the originating budget unit and deposited to the separate project account established for the individual facility.

(8) If an authorized project is canceled, any amount from the general fund deposited for the purpose of the capital renewal account pursuant to subsection (4) or (5) of this section shall lapse. Any other funds deposited for this purpose shall revert to their respective originating budget unit and fund source.

(9) No expenditures shall be made from the capital renewal account unless appropriated by the General Assembly.

(10) Sums deposited to the capital renewal account shall not lapse at the close of the fiscal year but shall carry forward into the next fiscal year and shall remain available solely for the purposes of this section.

(11) Notwithstanding the provisions of KRS 48.600, the capital renewal account shall be exempt from any state budget reductions.

HB 53, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department,

and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired,

shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) One (1) year of installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

(c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, the employee shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the employee does not pay the remaining cost or if the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18) *(a)* After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to three (3) years as a full-time certified or licensed teacher in a public school in another state. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee shall provide proof that he is not eligible for a retirement benefit for the period of service from a public defined benefit plan. The service shall not be included for determining benefits under KRS 61.702.

(19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the

employer as described in KRS 61.560(4).

(23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

(26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).

The Committee Substitute to **HB 53** is as follows:

HB 53, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the

employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-

eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) One (1) year of installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

(c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, the employee shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the employee does not pay the remaining cost or if the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal

Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18) *(a)* After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to three (3) years as a full-time certified or licensed teacher in a public school in another state. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee shall provide proof that he is not eligible for a retirement benefit for the period of service from a public defined benefit plan. The service shall not be included for determining benefits under KRS 61.702. To purchase service under this paragraph, an employee shall contract with the systems to do so prior to December 31, 2003.

(19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).

(23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes

the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

(26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).

HB 61, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the

retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(c) If an elected official resigns, begins receiving a retirement allowance, and is employed in a position required to participate in the same retirement system from which he or she retired within twelve (12) months of his resignation, the member's retirement shall be voided and the member shall repay to the retirement system benefits received. The member shall contribute to the member account established for him or her prior to the voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination.

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

The Committee Substitute to **HB 61** is as follows:

HB 61, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as

provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(c) If an elected official resigns, begins receiving a retirement allowance, and is employed in a position required to participate in the same retirement system from which he or she retired within twelve (12) months of his resignation, the member's retirement shall be voided and the member shall repay to the retirement system benefits received. The member shall contribute to the member account established for him or her prior to the voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation. The provisions of this paragraph shall apply to elected officials who retire on or after July 1, 2003.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination.

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

HB 81, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that it is the public policy of the Commonwealth of Kentucky to recognize and preserve the cultural, historical, and genealogical heritage of the state's cemeteries for present and future generations. This section and Section 2 of this Act provide a means by which the preservation of eligible Kentucky cemeteries may be financed in part through a voluntary check-off designation on state income tax return forms.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

Each taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the Department for Local Government's county cemetery fund created in KRS 67.682 may designate an amount, not to exceed the amount of the refund, to be paid to the fund. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to the fund. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

SECTION 3. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The week prior to Memorial Day of each year shall be Kentucky Cemetery Cleanup Week to encourage the statewide cleanup of cemeteries in the Commonwealth. This week shall provide an opportunity for Kentucky communities, individual citizens, and volunteer groups to participate with local, regional, and state entities, to restore, renew, and protect cemeteries as places of dignity, respect, and pride.

(2) Local governments and private businesses shall be encouraged to participate in Kentucky Cemetery Cleanup Week through developing, organizing, and implementing activities that highlight the historical and cultural heritage of their communities. They are encouraged to work in partnership with civic and volunteer organizations as well as corporate sponsors.

(3) The Governor may annually issue a proclamation recognizing the week prior to Memorial Day of each year as Kentucky Cemetery Cleanup Week and call upon all citizens of the Commonwealth to participate in the occasion to honor our ancestral legacy.

SECTION 4. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Descendants and family members of deceased persons buried in cemeteries or graves located on privately owned lands in the Commonwealth shall have a right of ingress to and egress from the location of the burial. This right is conditioned upon the following:

(a) Reasonable notice shall be given by the descendants and family members to the owner and the occupant, if

different, of their intention to access the land where the deceased person is buried;

(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of those graves or burial sites;

(c) Access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

(d) The access route shall be designated by the landowner or limited to an obvious access route that is visible from view of the property;

(e) The time and manner of access shall be reasonable and designated in writing signed by the descendants or family members and the landowner; and

(f) Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, cemetery, or grave sites, and shall be liable to the owner of the private lands for any damage caused as a result of their access.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth that is recognized by the General Assembly in subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative, nor shall it alter any easements, licenses, privileges, or other dedications which grant the right to visit the grave sites of deceased relatives and are in existence on the effective date of this Act.

(3) Any person denied reasonable access to an ancestor's or relative's burial site may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave site is located, or his or her agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (1) of this section. When granting such relief, the court may set the frequency, hours, and duration of the access.

Section 5. KRS 382.110 is amended to read as follows:

(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.

(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) *If the property to be conveyed contains a cemetery or grave site and this fact is known to the grantor, then that fact shall be noted on the deed or other instrument offered for record. If known to the grantor, the location of the cemetery or grave site shall also be noted on the deed or other instrument offered for record.*

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7)[~~(6)~~] No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one (1) source.

(8)[~~(7)~~] This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

Section 6. KRS 61.350 is repealed, reenacted as a new section of KRS Chapter 307, and amended to read as follows:

Any civil or judicial officer in this state who fails or refuses to enforce any statute bearing upon cemetery companies or burying grounds shall be fined *no less than five hundred dollars ($500) and no more than one thousand dollars ($1,000)*[~~twenty-five dollars ($25)~~] for each failure or refusal.

Section 7. KRS 381.690 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever any burial grounds lie within the corporate limits of a city the governing authorities of the city shall protect the burial grounds from being used for dumping grounds, building sites, playgrounds, places of entertainment and amusement, public parks, athletic fields or parking grounds.

Section 8. KRS 381.700 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The governing authorities of any city within whose corporate limits any burying grounds lie may require the owner or those having claims to the grounds to properly care for them.

Section 9. KRS 381.710 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The fact that any tract of land has been set apart for burial purposes and that a part or all of the grounds has been used for burial purposes shall be evidence that such grounds were set aside and used for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes.

Section 10. KRS 381.715 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) As used in this section, "cemetery lot" is a lot containing one (1) or more grave spaces and located within a cemetery registered pursuant to KRS 367.946 in a county containing an urban-county government or in a city.

(2) An officer of the cemetery may cause to be filed, on behalf of the cemetery, an action in the Circuit Court of the county where the cemetery is located requesting that the burial rights in the unused portion of the lots in question be deemed abandoned and that the cemetery be authorized to sell the rights upon entry of the court's judgment. The defendants in the action shall be the unknown heirs of the original owner of the burial rights in the lots in question.

(3) The petition shall include the following:

 (a) The name of the original owner of the burial rights in the lots in question.

 (b) The name of all persons buried in the lots and the date of burial, if known.

 (c) The name, address, and telephone number of the cemetery office.

 (d) An affidavit by the petitioner that:

  1. No person has been buried in the cemetery lots in question for a period of at least one hundred (100) years; and

  2. The identity of any owner of the burial rights in the lot in question or any heir of the owner is unknown to any officer or employee of the cemetery and not discoverable after a good faith attempt by an officer or employee to identify the owner or heir.

(4) Service of process shall be by warning order attorney, appointed by the court pursuant to CR 4.07.

(5) If the court finds the allegations set forth in paragraph (d) of subsection (3) of this section to be true, the court shall enter judgment deeming the burial rights in the lots in question abandoned and authorizing the cemetery to sell the rights.

(6) No judgment shall be entered declaring burial rights abandoned if an owner or heir of a cemetery lot has filed with the cemetery a statement in writing directing that certain grave spaces not be used.

Section 11. KRS 381.720 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever in the opinion of the legislative body of a city of the first, second, third, fourth or fifth class a cemetery located within the boundaries of such city has been abandoned and the land comprising the said cemetery is needed for a public purpose, an ordinance may be enacted declaring such cemetery, as described by metes and bounds, to be abandoned and authorizing the city attorney to institute suit for the city or other governmental agency created by the city in the circuit court of the county in which the city is located against the property comprising the cemetery to declare the said cemetery abandoned and to vest title thereto in the said city, or any governmental agency created by it pursuant to or by authority of the Kentucky Revised Statutes.

Section 12. KRS 381.730 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Upon the filing of the complaint the city or other governmental agency created by the city shall give notice thereof by publication pursuant to KRS Chapter 424.

Section 13. KRS 381.740 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Within thirty days after the last advertisement, any party having a claim to the cemetery or any lot therein or to the mortal remains of a person interred therein, may file his claim in the said proceeding for damages as compensation for the value of his interest in the cemetery or lot to which he has claim. Upon the filing of the aforesaid claim the circuit court shall appoint as commissioners three impartial housekeepers who are owners of land. They shall be sworn to faithfully and impartially discharge their duties. The commissioners shall view the land involved and they may hear evidence or make any inquiry they desire touching the value thereof and award to the claimants who are owners thereof the value of the property taken. They shall return a written report to the office of the clerk of the circuit court describing separately the property which is the subject of each claim. Either the claimant or the complainant may file exceptions to this report and demand a jury trial. The commissioners shall be allowed a reasonable fee which shall be taxed as cost.

Section 14. KRS 381.750 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If no claim is made within thirty days after the last advertisement, or if claims have been made and compensation duly paid either to the claimants or into court, the court shall declare the cemetery to be abandoned and enter judgment accordingly, vesting fee simple title in the complainant. Thereafter claimants shall have thirty days in which to remove the mortal remains and monuments from lots to which they have been adjudged to have claim, the reasonable cost thereof to be paid by the claimant. If, within thirty days after entry of judgment said remains have not been removed by the claimants thereto, it shall be the duty of such complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of such body, or bodies, in such other cemetery in the county in which said city is located as the protesting lot owner may designate, or if no designation be made, to another suitable cemetery in the county.

Section 15. KRS 381.755 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) Upon application of the owner of property upon which is located an abandoned grave or cemetery or whenever the fiscal court of any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation.

(2) The order or resolution for the removal and relocation of the grave or cemetery pursuant to subsection (1) shall specify and declare that at any time after the expiration of sixty days after the first publication of notice of such intended action pursuant to KRS Ch. 424, the court shall direct the removal and relocation of the grave or cemetery.

(3) Expenses for removal and relocation of any grave or cemetery under the provisions of this section shall be paid by the individual requesting such removal or if the removal is made in the best interest of the county the expenses shall be paid from county funds.

(4) Any grave or cemetery removed under the provisions of this section shall be relocated in a suitable place at the expense of the person or county requesting such removal and relocation.

(5) For the purposes of this section a grave or cemetery shall be considered abandoned when left untended for a period of ten years preceding the date of the resolution for removal and relocation of the grave or cemetery.

Section 16. KRS 381.760 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The cost of the proceeding shall be borne by the complainant, and the burden of proof shall be upon the claimant to establish his interest and to establish that it has not been abandoned.

Section 17. KRS 381.765 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If disinterment, removal, and reinterment of graves is effected by the Commonwealth of Kentucky or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, or any electric power or lighting company, such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed under the provisions of KRS Chapter 316; provided, however, a person holding a valid funeral director's license of another state may perform disinterment, removal and reinterment if the state in which such person is licensed has a reciprocal agreement whereby a license granted under the provisions of KRS Chapter 316 is recognized and accepted in that state.

SECTION 18. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet shall perform an inventory listing the number, location, and tribal affiliation, if known, of all Native American remains that are currently held by state-funded agencies, institutions, or universities. This list shall be reported to the General Assembly on or before January 15, 2004.

(2) The secretary of the Finance and Administration Cabinet shall perform an inventory listing of state-owned real estate, including but not limited to cemeteries that would be suitable for reinterment of Native American remains. This inventory shall be reported to the General Assembly on or before January 15, 2004.

Section 19. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

  (a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

  (b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

  (c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

  (d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(e) Effective January 1, 2004, in the case of a death in which the body or cremated remains are to be placed in a grave, vault, tomb, crypt, or niche, the specific location of the grave, vault, tomb, crypt, or niche within a cemetery shall be listed in the appropriate location on the death certificate by the individual responsible for filing the certificate of death.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and
2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

SECTION 20. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Every cemetery shall keep sufficient records of the specific location of every burial or interment in the cemetery occurring after the effective date of this Act. These records shall be kept at the cemetery's principal place of business and made available to the family of the deceased and other persons as each cemetery may determine.

(2) The records maintained shall be specific enough for an individual, after reviewing these records, to locate the specific grave, vault, tomb, crypt, or niche of an individual interred in that cemetery.

(3) Any cemetery or cemetery owner who violates subsection (1) of this section shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

The Committee Substitute to **HB 81** is as follows:

HB 81, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that it is the public policy of the Commonwealth of Kentucky to recognize and preserve the cultural, historical, and genealogical heritage of the state's cemeteries for present and future generations. This section and Section 2 of this Act provide a means by which the preservation of eligible Kentucky cemeteries may be financed in part through a voluntary check-off designation on state income tax return forms.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

Each taxpayer required to file a return pursuant to KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the Department for Local Government's county cemetery fund created in KRS 67.682 may designate an amount, not to exceed the amount of the refund, to be paid to the fund. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to the fund. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

SECTION 3. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The week prior to Memorial Day of each year shall be Kentucky Cemetery Cleanup Week to encourage the statewide cleanup of cemeteries in the Commonwealth. This week shall provide an opportunity for Kentucky communities, individual citizens, and volunteer groups to participate with local, regional, and state entities, to restore, renew, and protect cemeteries as places of dignity, respect, and pride.

(2) Local governments and private businesses shall be encouraged to participate in Kentucky Cemetery Cleanup Week through developing, organizing, and implementing activities that highlight the historical and cultural heritage of their communities. They are encouraged to work in partnership with civic and volunteer organizations as well as corporate sponsors.

(3) The Governor may annually issue a proclamation recognizing the week prior to Memorial Day of each year as Kentucky Cemetery Cleanup Week and call upon all citizens of the Commonwealth to participate in the occasion to honor our ancestral legacy.

SECTION 4. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Descendants and family members of deceased persons buried in cemeteries or graves located on privately owned lands in the Commonwealth shall have a right of ingress to and egress from the location of the burial. This right is conditioned upon the following:

(a) Reasonable notice shall be given by the descendants and family members to the owner and the occupant, if different, of their intention to access the land where the deceased person is buried;

(b) In the case of unmarked graves or burial sites, descendants or family members shall provide, if requested by the owner or occupant, reasonable proof of the existence of those graves or burial sites;

(c) Access shall be limited to the purposes of visiting the grave, maintaining the grave, and conducting genealogical research;

(d) The access route shall be designated by the landowner or limited to an obvious access route that is visible from view of the property;

(e) The time and manner of access shall be reasonable and designated in writing signed by the descendants or family members and the landowner;

(f) No state administrative regulation or county ordinance shall require paving, graveling, or fencing off of an access route to a cemetery or grave. Maintenance of access routes shall be agreed upon by the landowner and the descendants and shall not place an undue financial burden on the landowner; and

(g) Descendants and family members of the deceased person shall conduct themselves in a manner that does not damage the private lands, cemetery, or grave sites, and shall be liable to the owner of the private lands for any damage caused as a result of their access.

(2) The right of ingress to and egress from the location of the burial of descendants' and family members' ancestors and relatives on privately owned lands in the Commonwealth that is recognized by the General Assembly in subsection (1) of this section is not intended to alter the recognized common law right of a person to visit the grave site of a deceased relative, nor shall it alter any easements, licenses, privileges, or other dedications which grant the right to visit the grave sites of deceased relatives and are in existence on the effective date of this Act.

(3) Any person denied reasonable access to an ancestor's or relative's burial site may bring an action in the Circuit Court of the county in which the cemetery or grave site is located to enjoin the owner of the private lands on which the cemetery or grave site is located, or his or her agent, from denying the person reasonable ingress to and egress from the cemetery or grave site for the purposes set forth in subsection (1) of this section. When granting such relief, the court may set the frequency, hours, and duration of the access.

Section 5. KRS 382.110 is amended to read as follows:

(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.

(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two (2) or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) *If the property to be conveyed contains a cemetery or grave site and this fact is known to the grantor, then that fact shall be noted on the deed or other instrument offered for record. If known to the grantor, the location of the cemetery or grave site shall also be noted on the deed or other instrument offered for record.*

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7)[~~(6)~~] No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one (1) source.

(8)[~~(7)~~] This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in

pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

Section 6. KRS 61.350 is repealed, reenacted as a new section of KRS Chapter 307, and amended to read as follows:

Any civil or judicial officer in this state who fails or refuses to enforce any statute bearing upon cemetery companies or burying grounds shall be fined ***no less than five hundred dollars ($500) and no more than one thousand dollars ($1,000)***[~~twenty five dollars ($25)~~] for each failure or refusal.

Section 7. KRS 381.690 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever any burial grounds lie within the corporate limits of a city the governing authorities of the city shall protect the burial grounds from being used for dumping grounds, building sites, playgrounds, places of entertainment and amusement, public parks, athletic fields or parking grounds.

Section 8. KRS 381.700 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The governing authorities of any city within whose corporate limits any burying grounds lie may require the owner or those having claims to the grounds to properly care for them.

Section 9. KRS 381.710 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The fact that any tract of land has been set apart for burial purposes and that a part or all of the grounds has been used for burial purposes shall be evidence that such grounds were set aside and used for burial purposes. The fact that graves are not visible on any part of the grounds shall not be construed as evidence that such grounds were not set aside and used for burial purposes.

Section 10. KRS 381.715 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) As used in this section, "cemetery lot" is a lot containing one (1) or more grave spaces and located within a cemetery registered pursuant to KRS 367.946 in a county containing an urban-county government or in a city.

(2) An officer of the cemetery may cause to be filed, on behalf of the cemetery, an action in the Circuit Court of the county where the cemetery is located requesting that the burial rights in the unused portion of the lots in question be deemed abandoned and that the cemetery be authorized to sell the rights upon entry of the court's judgment. The defendants in the action shall be the unknown heirs of the original owner of the burial rights in the lots in question.

(3) The petition shall include the following:

  (a) The name of the original owner of the burial rights in the lots in question.

  (b) The name of all persons buried in the lots and the date of burial, if known.

  (c) The name, address, and telephone number of the cemetery office.

  (d) An affidavit by the petitioner that:

    1. No person has been buried in the cemetery lots in question for a period of at least one hundred (100) years; and

    2. The identity of any owner of the burial rights in the lot in question or any heir of the owner is unknown to any officer or employee of the cemetery and not discoverable after a good faith attempt by an officer or employee to identify the owner or heir.

(4) Service of process shall be by warning order attorney, appointed by the court pursuant to CR 4.07.

(5) If the court finds the allegations set forth in paragraph (d) of subsection (3) of this section to be true, the court shall enter judgment deeming the burial rights in the lots in question abandoned and authorizing the cemetery to sell the rights.

(6) No judgment shall be entered declaring burial rights abandoned if an owner or heir of a cemetery lot has filed with the cemetery a statement in writing directing that certain grave spaces not be used.

Section 11. KRS 381.720 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Whenever in the opinion of the legislative body of a city of the first, second, third, fourth or fifth class a cemetery located within the boundaries of such city has been abandoned and the land comprising the said cemetery is needed for a public purpose, an ordinance may be enacted declaring such cemetery, as described by metes and bounds, to be abandoned and authorizing the city attorney to institute suit for the city or other governmental agency created by the city in the circuit court of the county in which the city is located against the property comprising the cemetery to declare the said cemetery abandoned and to vest title thereto in the said city, or any governmental agency created by it pursuant to or by authority of the Kentucky Revised Statutes.

Section 12. KRS 381.730 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Upon the filing of the complaint the city or other governmental agency created by the city shall give notice thereof by publication pursuant to KRS Chapter 424.

Section 13. KRS 381.740 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

Within thirty days after the last advertisement, any party having a claim to the cemetery or any lot therein or to the mortal remains of a person interred therein, may file his claim in the said proceeding for damages as compensation for the value of his interest in the cemetery or lot to which he has claim. Upon the filing of the aforesaid claim the circuit court shall appoint as commissioners three impartial housekeepers who are owners of land. They shall be sworn to faithfully and impartially discharge their duties. The commissioners shall view the land involved and they may hear evidence or make any inquiry they desire touching the value thereof and award to the claimants who are owners thereof the value of the property taken. They shall return a written report to the office of the clerk of the circuit court describing separately the property which is the subject of each claim. Either the claimant or the complainant may file exceptions to this report and demand a jury trial. The commissioners shall be allowed a reasonable fee which shall be taxed as cost.

Section 14. KRS 381.750 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If no claim is made within thirty days after the last advertisement, or if claims have been made and compensation duly paid either to the claimants or into court, the court shall declare the cemetery to be abandoned and enter judgment accordingly, vesting fee simple title in the complainant. Thereafter claimants shall have thirty days in which to remove the mortal remains and monuments from lots to which they have been adjudged to have claim, the reasonable cost thereof to be paid by the claimant. If, within thirty days after entry of judgment said remains have not been removed by the claimants thereto, it shall be the duty of such complainant, through its proper officers, to pay for the removal of the monument and the disinterment, removal, and the reinterment of such body, or bodies, in such other cemetery in the county in which said city is located as the protesting lot owner may designate, or if no designation be made, to another suitable cemetery in the county.

Section 15. KRS 381.755 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

(1) Upon application of the owner of property upon which is located an abandoned grave or cemetery or whenever the fiscal court of any county deems it to be in the best interest of the county to remove and relocate any such grave or cemetery the court may issue an order or resolution authorizing such removal or relocation.

(2) The order or resolution for the removal and relocation of the grave or cemetery pursuant to subsection (1) shall specify and declare that at any time after the expiration of sixty days after the first publication of notice of such intended action pursuant to KRS Ch. 424, the court shall direct the removal and relocation of the grave or cemetery.

(3) Expenses for removal and relocation of any grave or cemetery under the provisions of this section shall be paid by the individual requesting such removal or if the removal is made in the best interest of the county the expenses shall be paid from county funds.

(4) Any grave or cemetery removed under the provisions of this section shall be relocated in a suitable place at the expense of the person or county requesting such removal and relocation.

(5) For the purposes of this section a grave or cemetery shall be considered abandoned when left untended for a period of ten years preceding the date of the resolution for removal and relocation of the grave or cemetery.

Section 16. KRS 381.760 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

The cost of the proceeding shall be borne by the complainant, and the burden of proof shall be upon the claimant to establish his interest and to establish that it has not been abandoned.

Section 17. KRS 381.765 is repealed and reenacted as a new section of KRS Chapter 307 to read as follows:

If disinterment, removal, and reinterment of graves is effected by the Commonwealth of Kentucky or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, or any electric power or lighting company, such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed under the provisions of KRS Chapter 316; provided, however, a person holding a valid funeral director's license of another state may perform disinterment, removal and reinterment if the state in which such person is licensed has a reciprocal agreement whereby a license granted under the provisions of KRS Chapter 316 is recognized and accepted in that state.

SECTION 18. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Finance and Administration Cabinet shall perform an inventory listing the number, location, and tribal affiliation, if known, of all Native American remains that are currently held by state-funded agencies, institutions, or universities. This list shall be reported to the General Assembly on or before January 15, 2004.

(2) The secretary of the Finance and Administration Cabinet shall perform an inventory listing of state-owned real estate, including but not limited to cemeteries that would be suitable for reinterment of Native American remains. This inventory shall be reported to the General Assembly on or before January 15, 2004.

Section 19. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(e) Effective January 1, 2004, in the case of a death in which the body or cremated remains are to be placed in a grave, vault, tomb, crypt, or niche, the specific location of the grave, vault, tomb, crypt, or niche within a cemetery shall be listed in the appropriate location on the death certificate by the individual responsible for filing the certificate of death.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and
2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall

identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

SECTION 20. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

(1) Every cemetery shall keep sufficient records of the specific location of every burial or interment in the cemetery occurring after the effective date of this Act. These records shall be kept at the cemetery's principal place of business and made available to the family of the deceased and other persons as each cemetery may determine.

(2) The records maintained shall be specific enough for an individual, after reviewing these records, to locate the specific grave, vault, tomb, crypt, or niche of an individual interred in that cemetery.

(3) Any cemetery or cemetery owner who violates subsection (1) of this section shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

HB 95, AN ACT relating to health insurance for public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city,

urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;

2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this

section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

(16) If a~~[state employee's residence and place of employment are in the same county, and if the]~~ hospital located within ***the state employee's***~~[that]~~ county ***of residence*** does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(17) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

The Committee Substitute to **HB 95** is as follows:

HB 95, AN ACT relating to health insurance for public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;

2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or

she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more

prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order

drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

(16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(17) ***If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.***

(18) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

HB 163, AN ACT relating to access to justice programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 27A.630 is amended to read as follows:

(1) Upon receipt of notice of designation of an agency by the circuit clerk, there shall be added to the filing fee in all civil actions filed in Circuit Court the sum of ***twenty***[~~ten~~] dollars ***($20)***[~~($10)~~], and to all civil actions filed in District Court, the sum of ***ten***[~~five~~] dollars ***($10)***[~~($5)~~]. No fee shall be charged for actions filed in neglect and dependency cases[~~ or in the small claims division of District Court~~]. This fee shall be designated as the Access to Justice Fee, and shall be charged at the time of filing of the first papers in the action.

(2) All fees collected pursuant to subsection (1) of this section during each month shall be placed in the general fund of the State Treasury, and appropriated in accordance with subsection (3) of this section. The clerks shall make a full report with the payment and receive a receipt for all payments.

(3) Fees collected shall be distributed monthly to the designated agencies on a pro rata basis, utilizing an allocation formula that distributes funds for each judicial district served, according to the proportion of the number of residents of that judicial district whose incomes are less than the official United States federal poverty guidelines, based on latest published United States census data, as a percentage of the total number of these residents in the Commonwealth of Kentucky. These funds shall be used by the designated agency to carry out the duties prescribed in KRS 27A.610.

(4) All unused or uncommitted funds received by a designated agency during its fiscal year shall be returned by the designated agency to the State Treasury, to be redistributed in the following calendar quarter to operating designated agencies in accordance with administrative regulations promulgated by the Administrative Office of the Courts.

HB 296, AN ACT relating to alternative project delivery methods for capital projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.030 is amended to read as follows:

As used in this code, unless the context requires otherwise:

(1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted;

(2) "Change order" means a written order signed by the purchasing officer, directing the contractor to make changes that the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor;

(3) "Chief purchasing officer" means the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177, and 180;

(4) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or

buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property;

(5) *"Construction manager-agency" means services to assist the purchasing agency manage construction that are procured through a personal services contract that is qualifications-based.*

(6) "Construction management-at-risk" means a project delivery method in which the purchasing officer enters into a single contract with an offeror that assumes the risk for construction at a contracted guaranteed maximum price as a general contractor, and provides consultation and collaboration regarding the construction during and after design of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190.

(7) "Contract" means all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It includes supplemental agreements with respect to any of the foregoing;

(8)[~~(6)~~] "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option;

(9)[~~(7)~~] "Contractor" means any person having a contract with a governmental body;

(10)[~~(8)~~] "Data" means recorded information, regardless of form or characteristic;

(11) "Design-bid-build" means a project delivery method in which the purchasing officer sequentially awards separate contracts, the first for architectural, engineering, or engineering-related services to design the project and the second for construction of the capital project according to the design. The contract shall be subject to the bonding requirements of KRS 45A.185.

(12) "Design-build" means a project delivery method in which the purchasing officer enters into a single contract for design and construction of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190.

(13)[~~(9)~~] "Designee" means a duly authorized representative of a person holding a superior position;

(14)[~~(10)~~] "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof;

(15)[~~(11)~~] "Employee" means an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body;

(16)[~~(12)~~] "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive or legislative branch of the state government;

(17)[~~(13)~~] "Meeting" means all gatherings of every kind, including video teleconferences;

(18)[~~(14)~~] "Negotiation" means contracting by either the method set forth in KRS 45A.085, 45A.090, or 45A.095;

(19)[~~(15)~~] "Person" means any business, individual, organization, or group of individuals;

(20)[~~(16)~~] "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It includes all functions that pertain to the procurement of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

(21)[~~(17)~~] "Purchase request" or "purchase requisition" means that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025;

(22)[~~(18)~~] "Purchasing agency" means any governmental body that is authorized by this code or its implementing administrative regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer;

(23)[~~(19)~~] "Purchasing officer" means any person authorized by a governmental body in accordance with procedures prescribed by administrative regulations to enter into and administer contracts and make written determinations and findings with respect thereto. The term includes an authorized representative acting within the limits of authority;

(24)[~~(20)~~] "Services" means the rendering by a contractor of its time and effort rather than the furnishing of a specific end product, other than reports that are merely incidental to the required performance of services;

(25)[~~(21)~~] "Supplemental agreement" means any contract modification that is accomplished by the mutual action of the parties;

(26)[~~(22)~~] "Supplies" means all property, including but not limited to leases of real property, printing, and insurance, except land or a permanent interest in land;

(27)[~~(23)~~] "Using agency" means any governmental body of the state that utilizes any supplies, services, or construction purchased under this code;

(28)[~~(24)~~] "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment; and

(29)[~~(25)~~] "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

Section 2. KRS 45A.045 is amended to read as follows:

(1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.

(a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.

(b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.

(2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.

(3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.

(4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

(5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Surplus Property, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.

(6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall

promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.

(7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.

(8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.

(9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.

(11) For capital construction projects, subject to the provisions of this code ***and Section 7 of this Act***, the ***procurement***~~[bidding]~~ may be on whichever of the following ***alternative project delivery*** methods, in the judgment of the secretary of the Finance and Administration Cabinet ***after first considering the traditional design-bid-build project delivery method***, offers the ***best value***~~[lowest real cost]~~ to the taxpayer:

(a) A ***design-build***~~[total design-bid]~~ basis; ***or***

(b) A ***construction management-at-risk basis***~~[package system commonly referred to as "turnkey";~~

~~(c) Phase bidding commonly referred to as "fast track"; or~~

~~(d) Construction management]~~.

Proposals~~[Bids]~~ shall be reviewed by the engineering staff to assure quality and value, and compliance with ***procurement***~~[bid]~~ procedures. All specifications shall be written to promote competition. ***Nothing in this section shall prohibit the procurement of phased bidding or construction manager-agency services.***

(12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

Section 3. KRS 45A.070 is amended to read as follows:

As used in KRS 45A.070 to ***45A.180***~~[45A.165]~~, unless the context in which they are used clearly requires a different meaning:

(1) "Cost-reimbursement contract" means a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles as provided in KRS 45A.215, and a fee, if any.

(2) "Established catalogue price" means the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item;

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(3) "Best value" means a procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth. These decisions shall be based on objective and quantifiable criteria that shall include price and that have been communicated to the offerors as set forth in the invitation for bids.

(4) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.080 of this code.

(5) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.085, 45A.090, 45A.095,[~~ or~~] 45A.100***, or Section 7 of this Act***.

(6) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) "Responsive bidder" means a person who has submitted a bid under KRS 45A.080 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

Section 4. KRS 45A.075 is amended to read as follows:

Except as otherwise authorized by law, all state contracts shall be awarded by:

(1) Competitive sealed bidding, pursuant to KRS 45A.080; or

(2) Competitive negotiation, pursuant to KRS 45A.085 and 45A.090 ***or Section 7 of this Act***; or

(3) Noncompetitive negotiation, pursuant to KRS 45A.095; or

(4) Small purchase procedures, pursuant to KRS 45A.100.

Section 5. KRS 45A.085 is amended to read as follows:

(1) When, under administrative regulations promulgated by the secretary ***or under Section 7 of this Act***, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts ***other than contracts for projects utilizing an alternative project delivery method under Section 7 of this Act*** may be competitively negotiated when it is determined in writing by the purchasing officer that the bids received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate.

(4) ***Contracts for projects utilizing an alternative project delivery method shall be processed in accordance with Section 7 of this Act.***

(5) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(6)[~~(5)~~] Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(7)[~~(6)~~] Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where the prices are fixed by law or administrative regulation, except that consideration shall be given to competitive terms and conditions;

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or prior experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable best value procurement, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 6. KRS 45A.090 is amended to read as follows:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the responsive and responsible bidder whose bid offers the best value; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080,

then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one (1) bidder, competitive negotiations pursuant to KRS 45A.085***(3)*** shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the most responsive and responsible bidders, based on criteria contained in the bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of best value.

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Section 7. KRS 45A.180 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall ***promulgate administrative***[~~issue~~] regulations ***by October 15, 2003,*** providing for as many alternative methods of management of construction contracting as he may determine to be feasible***;***[~~,~~] setting forth criteria to be used in determining which method of management of construction is to be used for a particular project***; establishing a model process parallel to the selection committee procedures established in 45A.810 for the procurement of alternative project services of "construction management-at-risk" and "design-build," and for a "construction manager-agency;"***[~~,~~] and ***providing***[~~granting to the purchasing officer, or the purchasing agency responsible for carrying out the construction project, the discretion to select the appropriate method of construction contracting for a particular project, provided, however,~~] that the ***chief*** purchasing officer shall execute and include in the contract file a written statement setting forth the facts ***recommending that***[~~which led to the selection of~~] a particular method of management of construction contracting ***be used***[~~in each instance~~].

(2) When a request for proposal for a project utilizing an alternative project delivery method is issued, the contracting body shall transmit a copy of the request for proposal to the Capital Projects and Bond Oversight Committee staff.

(3) Upon issuance of the contract for a project utilizing an alternative project delivery method, the contracting body shall submit the contract to the Government Contract Review Committee for review in accordance with KRS 45A.690 to 45A.725. The contracting body shall insure the contract clearly identifies to the committee that an alternative project delivery method is being utilized. Upon disapproval of or objection to the contract by the committee, the contracting body shall determine whether the contract shall be revised to comply with the objections of the committee, be canceled, or remain in effect. Subsequent contract amendments relating to change orders shall not be required to be submitted to the Government Contract Review Committee.

(4) A request for proposal for a project utilizing an alternative project delivery method under this section shall specifically state the evaluation factors and the relative weight of each to be used in the scoring of awards.

(5) Any governing body of a postsecondary institution that manages its capital construction program under Section 18 of this Act shall adhere to the regulations promulgated under this section when utilizing an alternative project delivery method for capital projects, and shall report to legislative committees as specified in this section.

(6) Any corporation as described by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program shall adhere to the regulations promulgated under this section when utilizing an alternative project delivery method for capital projects, and shall report to legislative committees as specified in this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

When a capital project is to be constructed utilizing the design-build construction method in accordance with Section 7 of this Act, the minimum percentage of scoring to be attributed to the guaranteed maximum price shall be fifty percent (50%), and that percentage shall be stated in the request for proposal. A request for proposal may allow for the payment of stipends for the technical proposal phase provided that the amount of the stipends and the terms under which stipends are to be paid are stated in the request for proposal.

SECTION 9. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The entity selected under KRS 45A.810 to draft the preliminary project design or specifications that forms the basis of a request for proposal for a project utilizing the design-build project delivery method shall not be eligible to act as an offeror to the request for proposal for procuring a design-build team for that project.

SECTION 10. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) When a capital project is to be constructed utilizing the design-build method in accordance with Section 7 of this Act, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a

design-build team and shall incorporate the following:

(a) The evaluation process may include a multiple phased proposal that is based on qualifications, experience, technical requirements, guaranteed maximum price, and other criteria as set forth in the request for proposal. The guaranteed maximum price component shall be submitted by the offeror independently of other documents and shall be held by the director of the Division of Contracting and Administration.

(b) Each evaluator shall independently score each phase and indicate a total score for all evaluation factors as set forth in the request for proposal.

(c) Final phase proposals from the offerors on the short list shall be evaluated and scored by the evaluation committee members who shall not have knowledge of the guaranteed maximum price component. Each evaluator shall independently score the final phase proposals and indicate a total score. A total average score shall be calculated for each offeror. Then each offeror's respective score for the guaranteed maximum price shall be added. The offeror with the highest point total in the final phase shall receive the contract award unless the guaranteed maximum price proposal is in excess of the authorized budget. If two (2) or more of the offerors achieve the same highest point total at the end of the final phase scoring, the purchasing officer shall request best-and-final proposals from each offeror.

(d) If the guaranteed maximum price of the offeror with the highest point total in the final phase is greater than the amount of funds appropriated for the project, then competitive negotiations may be conducted with the offerors under the following restrictions:

1. If discussion pertaining to the revision of the specifications or quantities are held, the offerors shall be afforded an opportunity to take part in such discussions; and

2. Written revisions of the specifications shall be made available to each of the offerors and shall provide for an expeditious response.

3. Information derived from revised maximum guaranteed price proposals shall not be disclosed to competing offerors.

(2) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the Commonwealth and approved by the purchasing officer.

SECTION 11. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

When a capital project is to be constructed utilizing the construction management-at-risk method, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a construction management-at-risk firm and regulations promulgated in accordance with Section 7 of this Act shall apply that set forth requirements for:

(1) Description of the bond, insurance, and other security provisions that apply to a project;

(2) Description of appropriate contract clauses and fiscal responsibility requirements that apply to each project; and

(3) Restrictions relating to conflicts of interest, including a provision that a construction management-at-risk entity shall be eligible to become an offeror of goods or services on a project it manages only when a subcontractor fails to perform and upon prior approval by the contracting body.

Section 12. KRS 45A.200 is amended to read as follows:

(1) For all construction contracts expected to exceed fifty thousand dollars ($50,000) in price, the secretary of the Finance and Administration Cabinet shall specify clauses providing for adjustments to contract terms and conditions where there has been:

(a) A unilaterally ordered change by the Commonwealth; or

(b) A site condition differing from that indicated in the contract except for [~~turnkey~~]contracts *under Section 7 of this Act* or negotiated contracts when appropriate written findings of fact have been made; or

(c) Variation in the estimated quantities in a contract providing for estimated quantities; or

(d) A unilateral suspension of work by the Commonwealth.

(2) In addition, there shall also be specified for inclusion in all construction contracts expected to exceed fifty thousand dollars ($50,000) in price a clause providing that a contract may be terminated for the convenience of the Commonwealth or for default, and further providing for liquidated damages when appropriate and as specified in the contract schedule, with excuses for nonperformance specifically provided for therein.

(3) The above specified clauses and conditions required for inclusion in all construction contracts expected to exceed fifty thousand dollars ($50,000) in price shall be available for optional use in other construction contracts.

SECTION 13. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The selection committee procedures established in Section 7 of this Act shall apply when procuring services of a construction manager-agency for a fee if the fee amount exceeds fifty thousand dollars ($50,000).

Section 14. KRS 45A.830 is amended to read as follows:

(1) For architectural, engineering, and engineering-related *construction* services procured under *Section 7 of this Act and*

KRS 45A.825, the procuring officer shall make available a copy of the proposed contract to each member of the selection committee involved in the procurement process for that contract after the procuring officer has negotiated an architectural, engineering, or engineering-related services contract for the Finance and Administration Cabinet or an engineering or engineering-related services contract for the Transportation Cabinet, but before the contract is submitted to the Government Contract Review Committee.

(2) For architectural, engineering, and engineering-related ***construction*** services procured under ***Section 7 of this Act and*** KRS 45A.825, the secretary of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, that shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances that may constitute a violation of this chapter occurring in the procurement process. Any employee of the Auditor of Public Accounts, who served as a nonvoting member of the selection committee and who attended any committee proceeding, may participate in the preparation of a report for filing with the Government Contract Review Committee certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were or were not met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(3) For architectural, engineering, and engineering-related ***construction*** services procured under ***Section 7 of this Act and*** KRS 45A.825, the procuring agency shall maintain the following information, readily available to the Government Contract Review Committee upon request:

  (a) The certificates;

  (b) The selection committee's ranking of firms; and

  (c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

Section 15. KRS 56.8161 is amended to read as follows:

If the secretary of the Finance and Administration Cabinet determines that an agency is entitled to additional space and that built-to-suit on private property or built-to-suit on state-owned land is the most economically advantageous method for acquiring that space, the secretary shall set forth his determination in a written finding which shall be approved by the Governor. ***The following definitions shall apply to built-to-suit- projects:***

(1) "Design-build-finance" means a built-to-suit project delivery method in which the chief purchasing officer enters into a single procurement and contract award for design, construction, and financing of a capital project over a contractually defined period; and in which the ownership and title of the capital project shall be conveyed at any time to the Commonwealth of Kentucky.

(2) "Design-build-finance-operate" means a built-to-suit project delivery method in which the chief purchasing officer enters into a single procurement and contract award for design, construction, financing, and operation of a capital project over a contractually defined period; and in which the ownership and title of the capital project shall be conveyed at any time to the Commonwealth of Kentucky.

Section 16. KRS 56.8177 is amended to read as follows:

All built-to-suit lease agreements shall be ***reviewed by the Office of Financial Management prior to execution on behalf of***~~[executed for]~~ the Commonwealth by the secretary of the Finance and Administration Cabinet ***or on behalf of an institution in accordance with KRS 164A.630,*** and approved for form and legality by the Attorney General or an assistant attorney general***,*** before they shall be binding against the Commonwealth. All the leases shall be lodged for record and recorded in the office of the county clerk of the county in which the leased property is located.

Section 17. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

  (a) Contractual services where no competition exists;

  (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

  (c) Instructional materials available from only one (1) source;

  (d) Where rates are fixed by law or ordinance;

  (e) Library books;

  (f) Commercial items that are purchased for resale;

  (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

  (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

  (i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no

contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) ***(a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," and "design-build" shall have the same meaning as in Section 1 of this Act.***

(b) For capital construction projects, the ***procurement***~~[bidding]~~ may be on a total ***design-bid-build***~~[design bid]~~ basis, a ***design-build basis, or construction management-at-risk basis***~~[package system commonly referred to as "turnkey," or construction management]~~, whichever in the judgment of the board offers the ***best value***~~[lowest real cost]~~ to the taxpayer. ***Proposals***~~[Bids]~~ shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with ***procurement***~~[bid]~~ procedures. All specifications shall be written to promote competition. ***Services for projects delivered on the design-build basis or construction management-at-risk basis shall be procured in accordance with Section 7 of this Act and the regulations promulgated in accordance with Section 7 of this Act. Nothing in this section shall prohibit the procurement of construction manager-agency services.***

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

(13) The acquisition and disposition of real property for the University of Kentucky Community College System and capital construction projects under KRS 45.750(1)(f) on real property for the use of the University of Kentucky Community College System shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval.

Section 18. KRS 164A.580 is amended to read as follows:

Subject to the provisions of KRS 45.750 through 45.800***, Section 7 of this Act,*** and KRS 56.870 to 56.874, the governing board of each institution may provide for the management and administration of capital construction projects authorized for such institution including, but not limited to:

(1) The procurement of necessary consulting services;

(2) The supervision and control of the making of all contracts for building projects, renovation projects, repair projects, and supervision of same;

(3) The prescription of the amount and form of evidences of indebtedness submitted in connection with bids and contracts when not otherwise provided by law;

(4) The preparation of plans and specifications for any construction, alteration, or enlargement of buildings, structures, and other improvements;

(5) The advertisement of bids and the awarding of contracts in connection with such projects;

(6) The supervision and inspection of all related work;

(7) The approval of changes in plans or specifications; and

(8) The acceptance of such improvements when completed according to such plans and specifications.

Section 19. KRS 164A.585 is amended to read as follows:

(1) Subject to authorization by the General Assembly ***and Section 18 of this Act***, the governing boards may make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against institution funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal, water supply system or other utility system.

(2) Review of construction plans for conformance with the uniform state building code shall be conducted by the Department of Housing, Buildings and Construction. The board shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of administration and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the Treasury to promptly pay for the work or that the work is to be done by employees of the institution.

(3) Any capital construction project, except as provided in subsection (4) of this section, shall be contracted for on a competitive bid basis, and the execution of such contracts shall be approved and authorized by the board. When a capital construction project has been approved as provided in this section, in whole or in part, the board shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations.

(4) A capital construction project, the total cost of completion of which will not exceed one hundred thousand dollars ($100,000), may be performed by the employees of the institution or by individuals hired specifically for the project. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the board as defined in KRS 164A.575.

Section 20. KRS 164A.595 is amended to read as follows:

Capital construction projects shall be carried out as follows:

(1) Subject to the provisions of KRS 45.750 through 45.800, ***and Section 7 of this Act,*** the governing boards of the institutions may acquire, erect, construct, reconstruct, improve, rehabilitate, remodel, repair, complete, extend, enlarge, equip, furnish, and operate any buildings, structures, improvements, or facilities, including any utilities, other related services and appurtenances and land required as the respective governing boards shall deem necessary for carrying on the educational, research or public service programs or discharging the statutory responsibilities of the universities and colleges and various divisions under the jurisdiction of the boards, or for the management, operation, or servicing of the universities and colleges.

(2) The governing boards may acquire real or personal property, by purchase, lease, sublease, condemnation, trade or exchange, gift, devise, or otherwise, and improve such property whenever in the judgment of the governing board it shall be necessary. The title to any real estate acquired under this section shall vest in the Commonwealth for the use and benefit of the appropriate institution.

Section 21. KRS 164A.600 is amended to read as follows:

(1) The procedures and limitations related to capital construction and equipment purchases set forth in KRS 45.750 through 45.800 ***and for construction of capital projects set forth in KRS Chapter 45A*** shall apply to the governing boards. The governing boards shall establish a contingency fund and an emergency repair, maintenance and replacement fund in their plant fund records. Transfer and use of these funds shall be governed by the provisions of KRS 45.770 and 45.780, as appropriate, except that the governing boards of each university shall perform the functions assigned to the Finance and Administration Cabinet in KRS 45.770 and 45.780.

(2) Capital construction and equipment purchase projects established by the governing boards shall be limited to the scope authorized by the General Assembly, and the total costs of each project shall not exceed the appropriation; except for emergency projects that may arise. In such instances, the governing boards may transfer funds from other projects or from operating funds; however each emergency project that is authorized by the board and sources of funds shall be promptly reported to the Capital Projects and Bond Oversight Committee.

Section 22. KRS 45A.300 is amended to read as follows:

(1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

(2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to ***45A.180***[~~45A.165~~].

(3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045(5) and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

(4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to the terms as may be agreed upon between the parties.

(5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars ($2,500).

(6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.

Section 23. KRS 45A.155 is amended to read as follows:

The determinations required by KRS 45A.085(1), (3), ***(6), and (7)***[~~(5) and (6)~~]; 45A.090(1), (2) and (3); 45A.095; 45A.105; 45A.110(1); 45A.120(3); and 45A.130(1) shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

HB 317, AN ACT relating to the Governor's Office for Technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-seven (27)***[~~twenty-six (26)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;

7. The commissioner of the Department for Local Government or his designee;

8. The secretary of the Justice Cabinet or his designee;

9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;

10. The adjutant general of the Department of Military Affairs or his designee;

11. The commissioner of the Department of Education or his designee;

12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;

13. The Commissioner of the Department of Agriculture or his designee;

14. The secretary of the Public Protection and Regulation Cabinet or his designee;

15. The secretary of the Tourism Development Cabinet or his designee;

16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;

17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists;[~~ and~~]

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts***; and***

24. The executive director of the Kentucky Infrastructure Authority or his designee.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 2. KRS 42.630 is repealed and reenacted as a new section of KRS Chapter 11 to read as follows:

The General Assembly finds and declares that:

(1) Much of the Commonwealth's information is geographically referenced and may be presented through geographic information systems;

(2) Geographic information systems allow for the exchange of information between levels of government and facilitate the management of the Commonwealth's natural, human, cultural, and economic resources;

(3) There is a need to reduce redundancy in data-collection and development efforts, to coordinate the various activities in geographic information systems, and to share geographic information system resources and expertise to maximize the Commonwealth's investment in geographic information systems technology;

(4) Considerations of cost and the need for the transfer of information among agencies of state government in the most timely and useful form possible require a uniform policy and coordinated approach for the use of geographic information systems;

(5) It is the policy of the Commonwealth of Kentucky to coordinate and direct the use of geographic information resources and technologies to provide the most cost-effective and useful retrieval of information by its elected and appointed officials.

Section 3. KRS 42.650 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) The Office of Geographic Information is hereby established in the ***Governor's Office for Technology***[~~Office of the Secretary of the Finance and Administration Cabinet~~].

(2) The Office of Geographic Information shall be headed by an executive director, whose appointment is subject to KRS 12.050. The executive director may employ personnel, pursuant to the provisions of KRS Chapter 18A, as required to perform the functions of the office.

(3) The office may solicit, receive, and consider proposals for funding from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation. The office may also solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance.

(4) The office shall:

(a) Establish a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(b) Coordinate multiagency geographic information system projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(c) Provide access to both consulting and technical assistance, and education and training, on the application and use of geographic information technologies to state and local agencies;

(d) Maintain, update, and interpret geographic information and geographic information systems standards, under the direction of the council;

(e) Provide geographic information system services, as requested, to agencies wishing to augment their geographic information system capabilities;

(f) In cooperation with other agencies, evaluate, participate in pilot studies, and make recommendations on geographic information systems hardware and software;

(g) Assist the council with review of agency information resource plans and participate in special studies as requested by the council;

(h) Provide staff support and technical assistance to the Geographic Information Advisory Council; and

(i) Prepare proposed legislation and funding proposals for the General Assembly which will further solidify coordination and expedite implementation of geographic information systems.

(5) The office may promulgate necessary administrative regulations for the furtherance of this section.

HCR 4, A CONCURRENT RESOLUTION urging the Legislative Research Commission to adopt the provisions of the Governor's Executive Order 2001-1084 relating to domestic violence and sexual assault in the public workplace.

WHEREAS, as awareness about domestic violence and sexual assault has grown, so has the recognition that these crimes have a major impact in the workplace; and

WHEREAS, domestic violence and sexual assault adversely affect not only the victim and the victim's family but also the victim's employer, managers, and co-workers through the loss of productivity, increased absenteeism, increased health care costs, and employee turnover; and

WHEREAS, the Commonwealth of Kentucky, as an employer, is committed not only to providing a work environment for its employees that is free of violence and intimidation, but also to creating a sensitive and safe environment for those employees who are the victims of domestic violence or sexual assault; and

WHEREAS, the Governor and First Lady have developed a model policy for the executive branch, as set forth in the document "Domestic Violence and Sexual Assault in the Public Workplace: *A Kentucky Model Policy*"; and

WHEREAS, the model policy for the executive branch consists of: (1) zero tolerance toward perpetrators; (2) assistance for victims who need time off for medical appointments, legal assistance, court appearances, relocation, or other arrangements for their personal safety, or who have performance problems as a direct result of the crime against them; and (3) use of prevention and intervention strategies to prevent or minimize the occurrence and devastating effects of these crimes; and

WHEREAS, the Governor, in Executive Order 2001-1084, dated August 24, 2001, established certain principles for program cabinets to follow in implementing the model policy; and

WHEREAS, the Secretary of State, the Attorney General, the State Auditor, the State Treasurer, and the Commissioner of Agriculture have also implemented the policy; and

WHEREAS, the General Assembly likewise is committed to providing a work environment for its employees that is safe from violence and intimidation and that provides a sensitive and safe environment for any employee who is a victim of domestic violence or sexual assault; and

WHEREAS, the General Assembly desires that the Legislative Research Commission continue to refine its policy of zero tolerance toward perpetrators and a safe and secure work environment for its employees; and

WHEREAS, the General Assembly recognizes the value and benefit of prevention and intervention strategies that will not only protect its employees but will also provide a sensitive environment and appropriate assistance for an employee who is a victim;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is hereby urged to join the executive branch and the statewide constitutional officers in adopting for its employees the following provisions of the Governor's Executive Order 2001-1084 relating to implementation of the Kentucky Model Policy for domestic violence and sexual assault in the public workplace:

"(1) The Commonwealth of Kentucky declares that domestic violence and sexual assault are strictly prohibited and constitute a major violation of state policy. Domestic violence and sexual assault include, but are not limited to harassment or the display of violence or threatening behavior that may result in physical or emotional injury to any state employee while in state offices, facilities, work sites, vehicles, or while conducting state business.

(2) All employees who are victims of domestic or sexual violence should have access to immediate assistance. This assistance shall, at a minimum, include: crisis intervention information provided in a private environment for victims and a workplace safety plan that has as its purpose the reduction of risk to the victim and other employees.

(3) All employees deserve consideration when seeking to protect themselves from abuse. All program agencies should allow adjustment of work schedules and the use of accrued or unpaid leave in order to allow a victimized employee to obtain medical treatment, legal assistance, or make other arrangements to ensure safety.

(4) State employees who commit acts of domestic or sexual violence shall be held accountable for their action. Agencies shall take prompt and appropriate disciplinary action against any employee who: misuses state resources to perpetrate domestic or sexual violence; harasses, threatens, or commits an act of domestic or sexual violence in the workplace or while conducting state business or using state resources; is convicted of a crime of domestic violence or a sex crime while on state business or using state resources, or is adjudicated as having violated a civil order of protection due to an incident of domestic or sexual violence when such action has a direct connection to the individual's duties as a state employee.

(5) Penalizing or disciplining employees solely based on their status as a victim of domestic and sexual violence is inappropriate and will not be tolerated.

(6) Agencies shall post resource information on domestic violence and sexual assault in locations where employees can obtain it without having to request it."

Calendar

HB 269, 294, HJR 82, and **83** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow the House to recess for a Rules Committee meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committee

The Committee on Rules reported that **HJR 28** and **HB 139** have been posted for passage in the Orders of the Day for February 12, 2003.

The Committee on Rules reported that the following Bills and Resolutions have been recommitted:

Appropriations and Revenue: **HB 269, 294, HJR 82, HJR 83, HB 52**

Orders of the Day

Representative Miller moved that the rules be suspended to grant floor privileges to the Pleasure Ridge Park High School Cheerleaders and to act upon a Legislative Citation. Agreed.

Representative Miller moved the adoption of the following **Legislative Citation No. 17**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the members of the Pleasure Ridge Park High School Varsity Cheerleading Squad whose outstanding performance in the 2002-2003 World Cheerleading Association Nationals in Nashville, Tennessee, has resulted in this talented group of athletes capturing the coveted national title in the Super Large Division. This notable achievement is the result of the extraordinary effort, perseverance and hard work put forth by the members and coaching staff of this team, who are applauded for demonstrating such dedication in pursuit of this noteworthy accomplishment. The members of this honorable body are delighted to join with Representative Charles Miller in commending the members of the Pleasure Ridge Park High School Varsity Cheerleading Squad for their extraordinary athletic performance that has brought great honor and esteem to the Jefferson County community and to the Commonwealth of Kentucky and in extending best wishes for future monuments of athletic success. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and three.

Legislative Citation No. 17 was adopted without objection.

Representative Thomas moved that the rules be suspended to grant floor privileges to Warren East High School Boys Cross Country team and to act upon a Legislative Citation. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 19**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the members and coaches of the Warren East High School Boys Cross Country Team upon capturing the 2002 KHSAA Class AA State Championship title for the third time in the last four years. Inasmuch as this phenomenal group of athletes has demonstrated extraordinary ability and dedication to their sport, the members of this distinguished body are pleased to join with Speaker Jody Richards and Representative Roger Thomas in recognizing the laudable achievements made by the Warren East High School Boys Cross Country Team in this worthwhile endeavor and in extending best wishes for continued athletic success. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and three.

Legislative Citation No. 19 was adopted without objection.

Representative Thomas moved that the rules be suspended to grant floor privileges to members of the Mesonic Lodge and to act upon a Legislative Citation. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 18**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the members of The Grand Lodge of Kentucky as members of this remarkable fraternal organization gather to be honored on Masons Day, a day set aside to recognize Masons and All the Affiliates of the Masonic Family, during today's activities of the 2003 Regular Session of the Kentucky General Assembly. The members of this honorable body are delighted to join with Speaker Jody Richards in offering a warm welcome to these outstanding and generous citizens and in extending best wishes for continued success and good fortune as the members of Kentucky's Masonic Organizations continue to work with great dedication on behalf of the citizens of this great Commonwealth. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and three.

Legislative Citation No. 18 was adopted without objection.

HB 46 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 46** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 11, 2003, roll call on **HB 46** - Appendix.)

HB 46 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 46** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 30 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 30** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 11, 2003, roll call on **HB 30** - Appendix.)

HB 30 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 30** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 117 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved that **HB 117** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 11, 2003, roll call on **HB 117** - Appendix.)

HB 117 was passed and the title agreed to.

Representative J. Adams moved that the vote by which **HB 117** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 206, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 206**. Agreed.

Representative Weaver moved that **HB 206**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 11, 2003, roll call on **HB 206** - Appendix.)

HB 206, by way of Committee Substitute, was passed.

Representative Weaver moved the adoption of Committee Amendment No. 1 Title to **HB 206**. Agreed.

Representative Weaver moved that the vote by which **HB 206**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 38, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Comer moved the adoption of the Committee Substitute to **HB 38**. Agreed.

Representative Collins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 38**. Agreed.

Representative Comer moved that **HB 38**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 11, 2003, roll call on **HB 38** - Appendix.)

HB 38, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Comer moved that the vote by which **HB 38**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 51 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 51** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 11, 2003, roll call on **HB 51** - Appendix.)

HB 51 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 51** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 109, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 109**. Agreed.

Representative Marzian moved that **HB 109**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 1**. (See February 11, 2003, roll call on **HB 109** - Appendix.)

HB 109, by way of Committee Substitute, as amended, was passed.

Representative Marzian moved the adoption of Committee Amendment No. 1 Title to **HB 109**. Agreed.

Representative Marzian moved that the vote by which **HB 109**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 124 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 124** be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 11, 2003, roll call on **HB 124** - Appendix.)

HB 124 was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 124** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 131, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bather moved the adoption of the Committee Substitute to **HB 131**. Agreed.

Representative Bather moved that **HB 131**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 11, 2003, roll call on **HB 131** - Appendix.)

HB 131, by way of Committee Substitute, was passed and the title agreed to.

Representative Bather moved that the vote by which **HB 131**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 132 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 132** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 11, 2003, roll call on **HB 132** - Appendix.)

HB 132 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 132** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 144 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 144** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 11, 2003, roll call on **HB 144** - Appendix.)

HB 144 was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 144** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 270 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved that **HB 270** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 11, 2003, roll call on **HB 270** - Appendix.)

HB 270 was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 270** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 194** be passed.

On the roll call the vote was: **Yeas 78, Nays 14**. (See February 11, 2003, roll call on **HB 194** - Appendix.)

HB 194 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 194** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 6** and **SB 41**. (Time: 3:50 p.m.)

Orders of the Day (Continued)

HB 88, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **HB 88**. Agreed.

Representative Wayne moved that **HB 88**, as amended, be passed.

On the roll call the vote was: **Yeas 45, Nays 49**. (See February 11, 2003, roll call on **HB 88** - Appendix.)

HB 88, as amended, was defeated.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on **HB 268, 365, 366, 368, 250, 303, 355, 388, 423, 469, 269, 294, HJR 82,** and **83**. Agreed.

Representative Stumbo moved that **HB 284** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bill and Resolutions (Continued)

HB 449, by Representative Denham: AN ACT relating to agritourism.

HB 450, by Representative Burch: AN ACT relating to equine drug testing and research.

HB 451, by Representatives Callahan, Fischer, Walton, Marcotte, and Kerr: AN ACT relating to tourism development and declaring an emergency.

HB 452, by Representatives Brinkman, Jenkins, and Wayne: AN ACT relating to Medicaid and declaring an emergency.

HB 453, by Representative Hoffman: AN ACT relating to hazardous duty retirement.

HB 454, by Representative Belcher: AN ACT relating to insurance accounting practices and procedures.

HB 455, by Representatives Webb, Couch, B. Smith, and Edmonds: AN ACT relating to fair competition in the marketing of motor fuel.

HB 456, by Representative Webb: AN ACT relating to crimes and punishments.

HB 457, by Representatives Burch, Jenkins, and Marzian: AN ACT relating to the dispensing of emergency contraceptives.

HB 458, by Representative Collins: AN ACT relating to oil and natural gas.

HB 459, by Representatives Jenkins and Vincent: AN ACT relating to health care practitioners.

HB 460, by Representative Barrows: AN ACT relating to state employee organizations.

HB 461, by Representative Barrows: AN ACT relating to retirement.

HB 462, by Representative A. Smith: AN ACT relating to interpreters for the deaf and hard of hearing.

HB 463, by Representative Crimm: AN ACT relating to collection of local government insurance premium taxes.

HB 464, by Representative Westrom: AN ACT relating to social work licensure.

HB 465, by Representative Wilkey: AN ACT relating to the Department of Fish and Wildlife Resources.

HB 466, by Representative P. Clark: AN ACT relating to domestic relations and declaring an emergency.

HB 467, by Representatives Nesler and Gray: AN ACT relating to traffic regulations.

HB 468, by Representative Simpson: AN ACT relating to land bank authorities.

HB 469, by Representatives Riner, Weaver, Cornett, Fischer, S. Lee, Napier, Crimm, De. Butler,.L. Clark, Buckingham, Pullin, Nesler, Ford, Sims, Harper, J. Lee, Graham, Haydon, T. Thompson, Ballard, Stewart, B. Smith, Reinhardt, Bruce, J. Adams, Nunn, Feeley, Stacy, Dw. Butler, Couch, Mobley, Siler, Kerr, Crall, Edmonds, Rader, J. Arnold, Barrows, Jenkins, Belcher, Pasley, Miller, Embry, Walton, R. Adams, Bather, Cherry, Callahan, Adkins, Richards, Simpson, A. Arnold, Webb, Gooch, Westrom, Harmon, Hall, Collins, Comer, Yonts, Gray, Burch, Meeks, McKee, Riggs, Baugh, Farmer, Bratcher, Vincent, Upchurch, Marcotte, and Brinkman: AN ACT relating to patriotic displays to honor the military campaigns and veterans of the United States Armed Forces.

HR 127, by Representative Graham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Madeline Locker True.

HR 128, by Representatives Graham and Weaver: A RESOLUTION honoring the members, families, and employers of the Kentucky Army and Air National Guard.

HJR 129, by Representatives Meeks, Crenshaw Bather, Graham, Simpson, Jenkins, Pasley, Hoffman, McKee, and Thomas: A JOINT RESOLUTION recognizing the contributions, potential, and special needs of small farmers in Kentucky, and black farm operators specifically.

HCR 130, by Representatives Webb, Couch, and Edmonds: A CONCURRENT RESOLUTION directing the Special Subcommittee on Energy to study the feasibility of legislation to prohibit the practice of selling motor fuel below cost where the effect is to injure competition.

HR 131, by Representative Richards: A RESOLUTION adjourning the House of Representatives in honor of the 203rd Anniversary of the Grand Lodge of Kentucky.

HJR 132, by Representatives Siler, Stumbo, Riner, Miller, J. Thompson, J. Lee, Weaver, DeWeese, Stewart, Rader, Pullin, Burch, Dw. Butler, Marzian, and Nunn: A JOINT RESOLUTION urging the University of Kentucky and the University of Louisville to complete an analysis of the scientific research findings regarding new drugs and new avenues for the potential therapeutic treatment of addiction to drugs and food.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Transportation: **HB 15, 36, 64, 114, 185, 239, 245, 255, 262, 292, 304, 310, HJR 78, 90, 94, 97, 110, 112**

Banking and Insurance: **HB 388**

Local Government: **HB 357**

Motions, Petitions, and Communications (Continued)

Representative Crall moved to withdraw **HB 184**. Agreed.

Representative Geveden moved to withdraw **HB 329**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 49, 72, 78, 157, 168, 181, HCR 15, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43,** and **44**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 107**, by Representative Belcher:

HB 107, On page 11, line 24, after the period "." by inserting "*A tax district may impose minimum and maximum tax liabilities for the tax on compensation.*".

Floor Amendment No. 1 to **HCR 56**, by Representative Weaver:

HCR 56, On page 1, line 4, delete "Ten" and insert "Eleven" in lieu thereof; and

On page 2, between lines 3 and 4, insert:

"(9) The Chief Information Officer of the Governor's Office for Technology;" and

On page 2, line 4, delete "(9)" and insert in lieu thereof "(10)"; and

On page 2, line 5, delete "(10)" and insert in lieu thereof "(11)".

Floor Amendment No. 3 to **HB 63 (Corrected)**, by Representative Weaver:

HB 63, On page 1, between lines 21 and 22, by inserting the following:

"*(4) (a) A person applying for an operator's license under subsection (3) of this section shall submit an application to the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.*

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, determine if the person is eligible to receive a license under subsection (3) of this section.

(c) If the Transportation Cabinet determines the person may be issued a license under subsection (3) of this section, the cabinet shall issue the person an official form that the applicant shall present to the circuit clerk of the county where the person resides. Upon receipt of this notice, and completion of any examinations required under KRS 186.480, the circuit clerk shall issue the applicant a license under subsection (3) of this section."; and

On page 1, line 22, by deleting "*(4)*" and inserting "*(5)*" in lieu thereof; and

On page 2, line 2, by deleting "*(5)*" and inserting "*(6)*" in lieu thereof; and

On page 2, line 6, by deleting "*(6)*" and inserting "*(7)*" in lieu thereof.

Floor Amendment No. 4 to the Committee Substitute to **HB 77**, by Representative Feeley:

HB 77, On page 2, lines 23 and 24, after "*school*" by deleting all new language through the end of line 4 and inserting in lieu thereof, "*shall offer water to students during the lunch period and is encouraged to offer, serve, sell, or otherwise make water available to students at other times during the school day.*";

On pages 5 and 6, beginning on page 5 after "(g)" by removing all new language through "*(h)*" on line 8, page 6;

On page 6, lines 15, 16, 19, 22, and 24 by removing the new letters, and restoring the existing letters by removing the brackets and strikethroughs; and

On page 8, after line 12, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Whereas sustained physical activity is important to the well-being of our children and research confirms that children can learn better when they participate in sustained physical activity, the Department of Education, in collaboration with the Kentucky Association of School Administrators; the Kentucky Association of Health, Physical Education, Recreation and Dance; the Kentucky Association of School Councils; the Kentucky Association of School Superintendents; the Kentucky Education Association; the Kentucky School Boards Association; the Parent Teachers Association; and other interested groups, shall develop statewide guidelines to incorporate planned, sequential instruction that promotes lifelong physical activity into the elementary and middle school curriculum for implementation beginning in the 2005-2006 school year. The department shall make a report regarding the status of the development of guidelines for the implementation of physical activity in the elementary and middle school curriculum to the Interim Joint Committee on Education at one (1) of its regularly scheduled meetings during the 2004-2005 interim.".

Floor Amendment No. 1 to the Committee Substitute to **HB 219**, by Representative P. Clark:

HB 219, On page 3, line 2, after the phrase "*conduct a temporary sale or display*" by inserting the words "*at any location*".

Floor Amendment No. 1 to **HB 389**, by Representative Haydon:

HB 389, On page 1, line 18, by inserting before "*and quarter horse*" the word "*paint,*"; and

On page 3, line 3, by bracketing and striking through the word "and"; and

On page 3, line 20, by bracketing and striking through the "." and inserting "*; and*" in lieu thereof; and

On page 3, after line 20, by adding the following:

"*(19) "Paint horse" means a horse that is registered with the American Paint Horse Association of Fort Worth, Texas.*";

On page 4, line 5, after "*, except for*" by inserting "*paint and*"; and

On page 5, after line 11, by adding the following:

"*(d) A track licensed to conduct paint horse racing may receive simulcasts and conduct interstate wagering on all paint horse races designated as graded stakes races by the racing committee of the American Paint Horse Association, without further consents or approvals.*"; and

On page 5, line 12, by deleting "*(d)*" and inserting "*(e)*" in lieu thereof; and

On page 5, line 17, after "*wagering on*" by inserting "*paint and*"; and

On page 5, line 19, by deleting "*(e)*" and inserting "*(f)*" in lieu thereof; and

On page 6, line 1, by deleting "*(f)*" and inserting "*(g)*" in lieu thereof; and

On page 6, line 8, by deleting "*(g)*" and inserting "*(h)*" in lieu thereof; and

On page 6, line 8, by deleting "*(f)*" and inserting "*(g)*" in lieu thereof; and

On page 6, line 15, by deleting "*(h)*" and inserting "*(i)*" in lieu thereof; and

On page 6, line 21, by deleting "*(e)*" and inserting "*(f)*" in lieu thereof; and

On page 6, line 22, by deleting "*(i)*" and inserting "*(j)*" in lieu thereof; and

On page 6, line 22, by deleting "*(h)*" and inserting "*(i)*" in lieu thereof; and

On page 6, line 25, by deleting "*(j)*" and inserting "*(k)*" in lieu thereof; and

On page 7, line 13, after "thoroughbred horse races" by inserting "*, paint horse races,*"; and

On page 10, line 21, by inserting at the beginning of the line "*, paint horse races,*"; and

On page 14, after line 6, by inserting the following:

"*(5) (a) A track licensed to conduct horse racing may receive interstate simulcasts of paint horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.*

(b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the host track; and

3. Fifty percent (50%) to the paint horse purse program within this state, to be allocated by the American Paint Horse Association or its successor to supplement purses for paint horse races in this state."; and

On page 14, line 7, by deleting "*(5)*" and inserting "*(6)*" in lieu thereof; and

On page 14, line 11, after "***simulcasts on***" by inserting "***paint and***".

Floor Amendment No. 2 Title to **HB 389**, by Representative Haydon:

HB 389, Amend the title to read "AN ACT relating to horse racing.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 14, Representative Palumbo

HB 30, Representatives Crimm, Comer, and McKee

HB 77, Representative Denham

HB 99, Representative Reinhardt

HB 112, Representatives Bather, Palumbo, and Stewart

HB 115, Representatives Belcher and Bratcher

HB 120, Representative Riggs

HB 131, Representative Meeks

HB 152, Representative Reinhardt

HB 153, Representatives Kerr and Reinhardt

HB 174, Representatives Embry, Hall, and Rand

HB 193, Representative Westrom

HB 194, Representatives Crimm, Nunn, and Siler

HB 205, Representatives Palumbo and Weaver

HB 240, Representative Meeks

HB 244, Representative Reinhardt

HB 251, Representative Kerr

HB 265, Representative Haydon

HB 270, Representative Marzian

HB 281, Representatives Belcher, Bratcher, and Meeks

HB 296, Representative Yonts

HB 316, Representative Stein

HB 343, Representative Comer

HB 344, Representative Reinhardt

HB 379, Representative Vincent

HB 396, Representative Fischer

HB 412, Representatives Comer, Cornett, Gray, Hall, and Upchurch

HCR 85, Representative Meeks

HJR 3, Representative Stumbo

HJR 116, Representative Dw. Butler

HR 127, Representative Barrows

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 99, Representative Brinkman

Announcements

The following meetings were announced:

Education Committee: Wednesday, February 12, 2003, 8 a.m.

Majority Caucus: Room 149, upon adjournment

Minority Caucus: Room 316, upon adjournment

Subcommittee on Administrative Regulations: Meeting for today rescheduled for Wednesday, February 12, 2003, upon adjournment

Labor and Industry Committee: Wednesday, February 12, 2003, 10 minutes on adjournment, Room 125

Appropriations and Revenue Committee: Wednesday, February 12, 2003, 10 a.m.

Tourism Development and Energy Committee: Wednesday, February 12, 2003, 9 a.m.

Government Contract Review Committee: Wednesday, February 12, 2003, upon adjournment

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Wednesday, February 12, 2003.

The motion that the House adjourn until 2 p.m., Wednesday, February 12, 2003, was adopted by voice vote.

WEDNESDAY, FEBRUARY 12, 2003

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastor Leron Reardon, Bethleham Baptist Church, Breman, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Coleman.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Tuesday, February 11, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 11**. (Time: 2:15 p.m.)

Representative Upchurch moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Upchurch moved the adoption of the following **Legislative Citation No. 26**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed participants of Leadership McCreary County an outstanding program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as Leadership McCreary County is a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Ken Upchurch in commending the members of Leadership McCreary County and graciously welcoming those in attendance on this day's session of the 2003 Kentucky General Assembly. Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and three.

Legislative Citation No. 26 was adopted without objection.

Representative Graham moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Graham moved the adoption of the following **HR 127**:

HR 127, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Madeline Locker True.

With deepest respect and admiration, we pay homage and tribute to Madeline Locker True, and we pause in silent reverence for her soul.

WHEREAS, Madeline Locker True was born on May 28, 1910, a native of Frankfort, Franklin County, Kentucky, and she traversed these earthly bounds on November 26, 2002; and

WHEREAS, Madeline Locker True was the loving daughter of the late John and Mary Ellen O'Brian Locker; she was the devoted husband of the late Howard True, and she was also preceded in death by a son, George True; she was the adored mother of Julie True; and she was the proud grandmother of two grandsons, Kevin Dale Manley and Mark S. Manley, and two great-grandsons, Ryan Thomas Manley and Ethan Chet Manley; and

WHEREAS, Madeline Locker True will be remembered as an active and involved citizen and an esteemed member of the Franklin County community; she retired from the Kentucky Transportation Cabinet in 1979 after 32 years of faithful service to the Commonwealth; she was a loyal member of the Democratic Party, spending countless hours of time and energy on behalf of the party and its candidates; and she was honored by the prestigious Democratic Woman's Club of Kentucky for over 70 years of dedicated service to the Democratic Party; and

WHEREAS, Madeline Locker True was an employee of the House of Representatives for all regular and special sessions from 1980 through 1996; and when this honorable body reflects upon the memory of Madeline Locker True, we remember her for the many friendships she made and sustained through the years, and also her compassion for and understanding of the common man, which she demonstrated daily throughout her life; and

WHEREAS, the passing of Madeline Locker True has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Madeline Locker True, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Madeline Locker True.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Julie True, 201 Arbolado Drive, Frankfort, Kentucky 40601.

There being no objection **HR 127** was adopted.

Introduction of Bills and Resolutions

HB 470, by Representative Adkins: AN ACT relating to the Kentucky Asset/Liability Commission.

HB 471, by Representative Burch: AN ACT relating to horse racing.

HB 472, by Representative Burch: AN ACT relating to the abolition of the death penalty.

HB 473, by Representative Pasley: AN ACT relating to municipalities and declaring an emergency.

HB 474, by Representative Moberly: AN ACT relating to chemical weapons materials disposal.

HB 475, by Representative Moberly: AN ACT relating to government contracts.

HB 476, by Representative Crimm: AN ACT relating to insurance.

HR 133, by Representatives Brinkman, Jenkins, Marzian, Crimm, DeWeese, Feeley, Burch, Bratcher, Wayne, Riggs, Miller, Meeks, L. Clark, Bather, Riner, De. Butler, Horlander, and P. Clark: A RESOLUTION honoring the Trinity High School Shamrocks, 2002 KHSAA Class 4A football champions.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 435, 449, HJR 129**

Appropriations and Revenue: **HB 439, 444, 446, 447**

Banking and Insurance: **HB 443, 454**

Economic Development: **HB 438**

Education: **HB 437**

Health and Welfare: **HB 445, 452, 457, 459, 464, HJR 132**

Judiciary: **HB 434, 441, 448, 456, 466, SB 41**

Licensing and Occupations: **HB 450, 462, HCR 126**

Local Government: **HB 436, 463, 468**

Natural Resources and Environment: **HB 458**

Seniors, Military Affairs, and Public Safety: **HB 469**

State Government: **HB 440, 442, 453, 460, 461**

Tourism Development and Energy: **HB 451, 455, 465, HCR 130**

Transportation: **HB 467, HCR 125, SB 6**

House Floor: **HR 123, 124, 127, 128, 131**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **HB 227, 324, HJR 111, HB 404**

Licensing and Occupations: **HB 389, 428**

State Government: **HB 84, 297, 370, 384, 387, 392, 412, 418, 430, 431**

Tourism: **HB 306, 373**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

State Government: **HB 186**

Report of Committees

The Committee on Tourism Development and Energy reported **HR 51** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 51, A RESOLUTION urging Cincinnati Bell to provide fair and equal broadband Internet access through their Asymmetric Digital Subscriber Line (ADSL) to rural customers in Gallatin, Grant, and Pendleton Counties.

WHEREAS, Cincinnati Bell, a wholly owned subsidiary of Broadwing, Inc., provides a range of telecommunications services and options to business and residential customers in Indiana, Ohio, and Kentucky; and

WHEREAS, the National Center for Small Communities, in testimony to the U.S. House of Representatives' Small Business Committee, reported that the major digital divide depressing rural businesses is the lack of broadband high speed Internet access in rural areas; and

WHEREAS, the National Center for Small Communities reported to the U.S. Congress, the U.S. Department of Agriculture, and the U.S. Department of Commerce of the severe disadvantages placed upon rural businesses by the lack of high speed Internet access in rural communities; and

WHEREAS, in April 2000, the U.S. Department of Commerce and the U.S. Department of Agriculture reported in Advanced Telecommunications in Rural America that rural businesses lack access to state-of-the-art telecommunications services, particularly broadband access, preventing rural communities' opportunities for economic growth and revitalization; and

WHEREAS, Kentucky's September 2002 strategic plan for improving access to the state's information highway, Kentucky Prepares for the Networked World, outlined goals toward implementing public policy initiatives that would increase Internet usage and enhance broadband deployment throughout Kentucky; and

WHEREAS, Cincinnati Bell represents that their business provides direct Digital Subscriber Line (DSL) services to 80% of the greater Cincinnati area, without regard to state lines or community boundaries; and

WHEREAS, Cincinnati Bell's principal operating territory includes not only the Metropolitan Cincinnati area, but also the northern Kentucky counties of Boone, Campbell, Kenton, Gallatin, Grant, and Pendleton; and

WHEREAS, Gallatin, Grant, and Pendleton counties include many rural towns and communities whose rural business and residential consumers are greatly in need of equal access to Cincinnati Bell's Advanced Digital Subscriber Line (ADSL) for economic and community development;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Cincinnati Bell, a wholly owned subsidiary of Broadwing, Inc., is urged to communicate to the people of Gallatin, Grant, and Pendleton Counties and their elected representatives, their company's plan of action for providing Advanced Digital Subscriber Line (ADSL) access to rural customers, both business and residential.

Section 2. Cincinnati Bell is urged to implement measures in the most expedient manner possible to provide fair, reasonable and equitable access to their ADSL service for rural businesses and residential customers in Gallatin, Grant, and Pendleton Counties.

Section 3. The Clerk of the House of Representatives shall deliver a copy of this resolution to Jack Cassidy, President, Cincinnati Bell Telephone Company, 201 E. Fourth Street, Cincinnati, Ohio 45202, to Martin J. Huelsman, Chairman of the Public Service Commission, and to Dr. William Brundage, Commissioner of the Office for the New Economy, 702 Capitol Ave., Suite 256, Frankfort, KY 40601.

The Committee on Education reported **HB 224**, with Committee Substitute attached thereto, **HB 252**, with Committee Substitute and Committee Amendment attached thereto, **HB 271, HB 275, HB 279, HB 320**, with Committee Substitute attached thereto, **HB 341, HB 360, HB 376,** and **HCR 45** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 224, AN ACT relating to directors of pupil personnel in local school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.140 is amended to read as follows:

The director of pupil personnel shall:

(1)[~~Devote his entire time to the duties of his office;~~

~~(2)~~] Enforce the compulsory attendance and census laws in the attendance district he serves;

(2)[~~(3)~~] Acquaint the school with the home conditions of the student, and the home with the work and advantages of the school;

(3)[~~(4)~~] Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;

(4)[~~(5)~~] Secure the enrollment in school of all students who should be enrolled and keep all enrolled students in reasonably regular attendance;

(5)[~~(6)~~] Visit the homes of students who are absent from school or who are reported to be in need of books, clothing, or parental care;

(6)[~~(7)~~] Provide for the interviewing of students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education.

(7)[~~(8)~~] Report to the superintendent of schools in the district in which the student resides the number and cost of books and school supplies needed by any student whose parent, guardian, or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;

(8)[~~(9)~~] Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.

Section 2. KRS 630.060 is amended to read as follows:

(1) Information supplied by the child to a court designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child.

(2) No complaint shall be received by the court designated worker alleging habitual truancy unless an adequate assessment of the child has been performed pursuant to KRS 159.140*(2),* (3), ***and (5)***[~~, (4) and (6)~~], unless it can be shown that the assessment could not be performed due to the child's failure to participate.

The Committee Substitute to **HB 224** is as follows:

HB 224, AN ACT relating to directors of pupil personnel in local school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.140 is amended to read as follows:

(1) The director of pupil personnel shall:

(a)[~~(1)~~] Devote his entire time to the duties of his office ***except as provided in subsection (2) of this section***;

(b)[~~(2)~~] Enforce the compulsory attendance and census laws in the attendance district he serves;

(c)[~~(3)~~]Acquaint the school with the home conditions of the student, and the home with the work and advantages of the school;

(d)[~~(4)~~] Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;

(e)[~~(5)~~]Secure the enrollment in school of all students who should be enrolled and keep all enrolled students in reasonably regular attendance;

(f)[~~(6)~~] Visit the homes of students who are absent from school or who are reported to be in need of books, clothing, or parental care;

(g)[~~(7)~~] Provide for the interviewing of students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used

for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education.

(h)[~~(8)~~] Report to the superintendent of schools in the district in which the student resides the number and cost of books and school supplies needed by any student whose parent, guardian, or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;

(i)[~~(9)~~] Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.

(2) A local school district superintendent may annually request the commissioner of education to waive the requirement that a director of pupil personnel devote his or her entire time to his or her duties if the school district has a student enrollment of less than two thousand (2,000) students.

HB 252, AN ACT relating to national board certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.133 is amended to read as follows:

(1) There is hereby established a "Teachers' National Certification Incentive Trust Fund" in the State Treasury for the purposes of:

(a) Funding stipends for teachers to prepare for certification by the National Board for Professional Teaching Standards;

(b) Reimbursing a portion of the certification fee to each teacher who is awarded national board certification;

(c) Reimbursing local boards of education for persons who serve as substitute teachers for national board certification candidates; and

(d) Funding stipends for national board certified teachers who serve as mentors to other teachers within the school district.

(2) Appropriations by the General Assembly in each biennial budget for the purpose of supporting national board certification shall be credited to the fund and invested until needed. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for the purposes of this section. Funds appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.

(3) The Education Professional Standards Board shall promulgate administrative regulations that establish the procedures for the administration of the funds as described in this section and the requirements for participating teachers and local boards of education. ***The board shall allocate only those funds to teachers or school districts for the purposes in this section for which other sources of funds are not being received. The board may limit the number of participants accepted in any given enrollment or application period due to the lack of available funds.***

(4) Money in the fund shall be distributed to local boards of education and teachers by the Kentucky Department of Education in compliance with the administrative regulations promulgated by the board.

Section 2. KRS 161.134 is amended to read as follows:

(1) (a) A teacher pursuing national board certification shall receive from the fund established under KRS 161.133 a stipend of two hundred dollars ($200) per day for two (2) days beyond the school contract year to prepare for the certification assessments.

(b) A local board of education shall provide five (5) days' released time during the school year for a teacher pursuing national board certification. The local board of education shall request reimbursement from the fund established under KRS 161.133 for substitute teacher pay based on the local board of education salary schedule for substitute teachers and for stipends paid to a teacher described in subsection (3) of this section. A local board of education may, at its own expense, provide additional released time for teachers pursuing national board certification.

(c) If a teacher does not successfully complete all assessments required for national board certification during a school year, the provisions in this subsection may be applied to a second school year.

(2) ***(a)*** As of July 14, 2000, a teacher who attains national board certification shall be reimbursed seventy-five percent (75%) of the certification fee for the initial ten (10) year certificate***, except the Education Professional Standards Board may decrease the percentage of reimbursement if a teacher receives payment other than a repayable loan for the same purpose from another source and the cumulative amount would exceed one hundred percent (100%) of the cost of the certification fee.***

(b) Fees for retaking one (1) or more entries of the national board assessment for the initial national board certificate and[~~,~~] fees for renewal of the[~~ national board~~] certificate shall be at the teacher's expense.

(c) Nothing in this subsection shall prohibit the board from reimbursing a percentage of the initial certification fee to a teacher who has received a repayable loan from a local board of education or other agency to offset initial costs.

(3) A national board certified teacher may receive a stipend in addition to his or her annual compensation for serving as a mentor to teachers within his or her school or school district. The Education Professional Standards Board shall promulgate administrative regulations~~[by January 1, 2001,]~~ under which a local board of education, in cooperation with the school-based decision making council, may establish a mentoring program within a school to utilize national board certified teachers. The administrative regulations shall specify the conditions for the mentoring program as well as the amount of the stipend that will be provided to a teacher serving as a mentor.

The Committee Substitute to **HB 252** is as follows:

HB 252, AN ACT relating to national board certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.133 is amended to read as follows:

(1) There is hereby established a "Teachers' National Certification Incentive Trust Fund" in the State Treasury for the purposes of:

(a) Funding stipends for teachers to prepare for certification by the National Board for Professional Teaching Standards;

(b) Reimbursing a portion of the certification fee to each teacher who is awarded national board certification;

(c) Reimbursing local boards of education for persons who serve as substitute teachers for national board certification candidates; and

(d) Funding stipends for national board certified teachers who serve as mentors to other teachers within the school district.

(2) Appropriations by the General Assembly in each biennial budget for the purpose of supporting national board certification shall be credited to the fund and invested until needed. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for the purposes of this section. Funds appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.

(3) The Education Professional Standards Board shall promulgate administrative regulations that establish the procedures for the administration of the funds as described in this section and the requirements for participating teachers and local boards of education. ***The board shall allocate only those funds to teachers or school districts for the purposes in this section for which other sources of funds are not being received. The board may limit the number of participants accepted in any given enrollment or application period due to the lack of available funds.***

(4) Money in the fund shall be distributed to local boards of education and teachers by the Kentucky Department of Education in compliance with the administrative regulations promulgated by the board.

Section 2. KRS 161.134 is amended to read as follows:

(1) (a) A teacher pursuing national board certification shall receive from the fund established under KRS 161.133 a stipend of two hundred dollars ($200) per day for two (2) days beyond the school contract year to prepare for the certification assessments.

(b) A local board of education shall provide five (5) days' released time during the school year for a teacher pursuing national board certification. The local board of education shall request reimbursement from the fund established under KRS 161.133 for substitute teacher pay based on the local board of education salary schedule for substitute teachers and for stipends paid to a teacher described in subsection (3) of this section. A local board of education may, at its own expense, provide additional released time for teachers pursuing national board certification.

(c) If a teacher does not successfully complete all assessments required for national board certification during a school year, the provisions in this subsection may be applied to a second school year.

(d) When funds are not available to fully fund the requirements of paragraphs (a), (b), and (c) of this subsection for all national board applicants, the board may prorate the specified reimbursements in paragraphs (a) and (b) and may limit the conditions under which provisions of paragraph (c) shall be applied to second year participants. The board shall establish the procedures for carrying out the provisions of this subsection in an administrative regulation.

(2) ***(a)*** As of July 14, 2000, a teacher who attains national board certification shall be reimbursed seventy-five percent (75%) of the certification fee for the initial ten (10) year certificate***, except the Education Professional Standards Board may decrease the percentage of reimbursement if a teacher receives payment other than a repayable loan for the same purpose from another source and the cumulative amount would exceed one hundred percent (100%) of the cost of the certification fee.***

(b) Fees for retaking one (1) or more entries of the national board assessment for the initial national board certificate and~~[.]~~ fees for renewal of the~~[national board]~~ certificate shall be at the teacher's expense.

(c) Nothing in this subsection shall prohibit the board from reimbursing a percentage of the initial certification fee to a teacher who has received a repayable loan from a local board of education or other agency to offset initial

costs.

(3) A national board certified teacher may receive a stipend in addition to his or her annual compensation for serving as a mentor to teachers within his or her school or school district. The Education Professional Standards Board shall promulgate administrative regulations[~~ by January 1, 2001,~~] under which a local board of education, in cooperation with the school-based decision making council, may establish a mentoring program within a school to utilize national board certified teachers. The administrative regulations shall specify the conditions for the mentoring program as well as the amount of the stipend that will be provided to a teacher serving as a mentor.

Section 3. Whereas the current appropriated and available funds are insufficient to provide the national board incentives as described in Sections 1 and 2 of this Act to all teachers who wish to participate, and whereas the Education Professional Standards Board needs statutory guidance on how to proceed under these circumstances, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 252** is as follows:

HB 252, Change title to read "AN ACT relating to national board certification and declaring an emergency.".

HB 271, AN ACT relating to the naming of colleges in the Kentucky Community and Technical College System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.595 is amended to read as follows:

(1) The board of regents for the Kentucky Community and Technical College System shall designate ***the names of colleges within the system. A college created by the merger of the Paducah Community College and the West Kentucky Technical College shall be known as the West Kentucky Community and Technical College***[~~each community college with a name that includes the words "Community College." The names of community colleges on May 30, 1997, shall be retained~~].

(2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction, or operation of[~~ community~~] colleges ***within the system***. The board may commemorate donations from private persons or corporations with suitable memorials.

(3) The board may accept federal grants to be used in the acquisition, construction, or operation of ***its***[~~community~~] colleges.

HB 275, AN ACT relating to safety and security officers at institutions of higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.950 is amended to read as follows:

For the purposes of KRS 164.950 to 164.980, the following definitions shall apply:

(1) "Institution of higher education" and "institution" mean:

 (a) Any public college, university, technical school, professional school, or other institution of postsecondary education operated by the Commonwealth of Kentucky or by any public authority or political subdivision thereof; and

 (b) Any private college, university, theological seminary, professional school, or other institution of postsecondary education that:

  1. Is accredited by a recognized regional or national organization for the accreditation of colleges, universities or theological seminaries, or by a professional association which accredits institutions providing education in its profession, or whose course credits are accepted for unrestricted transfer at three (3) or more institutions holding such accreditation; and

  2. Confers baccalaureate degrees, or equivalent degrees or technical certificates for which the usual and customary period of study is at least four (4) years, or that confers graduate or professional degrees; and

  3. Occupies real property and conducts educational courses in a classroom environment according to a regular, published academic schedule.

(2) The governing board of each[~~ public~~] institution of higher education is authorized to establish a safety and security department and appoint safety and security officers and other employees for the university, college, or other institution of[~~ public~~] higher education for which it is responsible, to prescribe distinctive uniforms for the safety and security officers of said institution, and to designate and operate emergency vehicles. Safety and security officers so appointed shall take an appropriate oath of office, in the form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the governing board.

Section 2. KRS 164.955 is amended to read as follows:

(1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general

police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing governing board of the respective institution employing them. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:

(a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions, and to protect all persons and property located thereon from injury, harm and damage;

(b) To enforce, and to assist the officials of their respective institutions in the enforcement of, the lawful rules and regulations of said institution, and to assist and cooperate with other law enforcement agencies and officers. Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective institutions, including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the institution owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.

(2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:

(a) When in ***immediate***[~~hot~~] pursuit of an actual or suspected violator of the law; or

(b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or

(c) When requested to act by the chief of police of the city or county in which the institution's property is located; or

(d) When requested to act by the sheriff of the county in which the institution's property is located; or

(e) When requested to act by the ***commissioner***[~~director~~] of State Police; or

(f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; or

(g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or

(h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.

(3) Safety and security officers appointed pursuant to KRS 164.950 to 164.980 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the ***institution of higher education that employs them***[~~university~~]. Where desirable and at the discretion of the institution of higher education's police officials, the university safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.

(4) Safety and security departments created and operated by the governing boards of public institutions of higher education shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.

(5) ***Safety and security departments created and operated by the governing boards of private institutions of higher education shall be deemed public police departments, and the sworn safety and security officers thereof shall be public police officers, for the purposes of exercising police powers as granted by this section, for operating emergency vehicles and police radios, and for access to the Law Information Network of Kentucky and the National Crime Information Center computer networks to the extent allowed by federal law. Private institution safety and security officers shall not be deemed to be public police officers for the purposes of receiving supplemental pay or other benefits from the Kentucky Law Enforcement Program Fund nor for the purpose of receiving benefits under KRS 61.315. Employment as a sworn safety and security officer at a private institution of higher education shall not authorize an officer to participate in any retirement, pension or employee compensation system established for public peace officers.***

(6) Nothing in KRS 164.950 to 164.980 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Kentucky State Police, sheriff, constable, or other peace officer either on the property of an institution of higher education or otherwise.

Section 3. KRS 164.960 is amended to read as follows:

All persons appointed as safety and security officers pursuant to KRS 164.950 to 164.980 shall, at the time of their employment[~~, be~~]:

(1) ***Be*** not less than ***twenty-one (21)***[~~eighteen (18)~~] years of age;[~~ and~~]

(2) Comply with the requirements of KRS 61.300[~~, other than the age requirement~~]; and

(3) [~~Shall~~]Possess whatever other requirements as may be set by the governing board of the institution of[~~ public~~] higher education which employs them.

Section 4. KRS 164.965 is amended to read as follows:

The governing board of each institution of[~~ public~~] higher education may provide for the appointment or promotion to the ranks and grades and positions of the department such officers and civilians as are considered by the board to be necessary for the efficient administration of the department. Such officers and civilians shall receive such compensation as shall be fixed and paid by the board.

Section 5. KRS 164.970 is amended to read as follows:

(1) Vehicles used for emergency purposes by the safety and security department of ***an***[~~a public~~] institution of higher education shall be considered as emergency vehicles***,*** [~~and ~~]shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.

(2) Safety and security officers directly employed by the governing board of ***an institution***[~~public institutions~~] of higher education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to ***police***[~~peace~~] officers in cities of the first four (4) classes[~~ provided~~] under KRS 527.020, provided the governing board of the public institution of higher education so ***authorizes***[~~authorized~~] in writing.

(3) ***Safety and security officers directly employed by the governing boards of private institutions of higher education shall be deemed to be peace officers for the purposes of KRS 527.020 when acting within the official scope of their employment, whether upon the property of the institution or elsewhere within the Commonwealth.***

(4) Safety and security departments of[~~ public~~] institutions of higher education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the Federal Communications Commission, or its successor***,***[~~;~~] KRS 432.570 to the contrary notwithstanding.

(5)[~~(4)~~] Safety and security departments of[~~ public~~] institutions of higher education shall comply with the requirements of the Kentucky Revised Statutes and the Justice Cabinet with regard to reporting of criminal and other statistics.

Section 6. KRS 164.975 is amended to read as follows:

(1) The governing boards of public institutions of higher education, each having the power and authority to govern and control the method and purpose of use of property owned or occupied by their respective institution, including travel over such property, is each hereby confirmed in its authority to regulate the traffic and parking of motor vehicles, bicycles or other vehicles as well as the traffic of pedestrians on, over and across the streets, roads, paths and grounds of real property owned, used or occupied by such institution. Such regulations applicable to traffic and parking may include, but not be limited to, the following provisions:

  (a) Provisions governing the registration, speed, operation, parking and times, places and manner of use of motor vehicles, bicycles and other vehicles.

  (b) Provisions prescribing penalties for the violation of such regulations, which penalties may include the imposition of reasonable charges, the removing and impounding (at the expense of the violator) of vehicles which are operated or parked in violation of such regulations, and the denial of permission to operate vehicles on the property of such institution.

  (c) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by such institution. Provided, however, that nothing herein contained shall be deemed to limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys or ways.

(2) ***(a) Except as provided in this subsection, the governing boards of private institutions of higher education may exercise the same authority as that conveyed by subsection (1) of this section to the governing boards of public institutions over all property owned, leased, or controlled by the private institution, including private drives, roadways, and streets upon that property.***

  (b) No uniform citation or parking citation enforceable in the Court of Justice or a city, urban-county, county, or consolidated local government parking tribunal shall be issued for a violation of an institutional rule, regulation, or policy issued pursuant to subsection (1) of this section.

  (c) A uniform citation or parking citation enforceable in the Court of Justice or a city, urban-county, county, or consolidated local government parking tribunal may be issued for a violation of state law or local ordinance if that private property is considered a highway pursuant to KRS 189A.010.

  (d) The authority granted by this subsection shall not extend to establishing regulations governing parking, traffic flow, speed limits, pedestrian movement, or other activities upon public streets and roadways passing through or adjacent to the property of the institution.

  (e) Safety and security officers of a private institution of higher education may enforce public laws and ordinances and may temporarily control the flow of traffic on public streets and roadways passing through or adjacent to the property of the institution.

(3) Motor vehicle moving violations of regulations issued ***by a public institution of higher education*** under this section shall be deemed violations of the appropriate equivalent sections of the motor vehicle laws of the Commonwealth and may be prosecuted in the courts having territorial jurisdiction over the physical location of the offense.

Section 7. KRS 164.980 is amended to read as follows:

No person shall falsely represent himself to be a safety and security officer, agent or employee of a safety and security department of a public ***or private*** institution of higher education and in such assumed character[~~,~~] arrest,[~~ or~~] detain,[~~ or~~] search, or question[~~,~~] in any manner the person or property of any person, nor shall any person without the authority of the governing board of the public ***or private*** institution of higher education wear its official uniform, insignia, badge, or identification of the department.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A safety and security officer employed by a private institution of higher education pursuant to KRS 164.950 to 164.980 shall be a certified peace officer as provided in KRS 15.380 to 15.404 and shall remain so during the term of his or her employment.

(2) A safety and security officer employed by a private institution of higher education pursuant to KRS 164.950 to 164.980 who is not a certified peace officer at the time of employment shall be subject to the provisions of KRS 15.380 to 15.404 with regard to the time limit in which the officer shall become a certified peace officer or lose his or her peace officer powers.

(3) A certified peace officer who is employed by a private institution of higher education as a safety and security officer shall be subject to the provisions of KRS 15.380 to 15.404 during the time of his or her employment and employment by a private institution of higher education shall be considered the same as if the certified peace officer had been employed by a public agency.

(4) A certified peace officer who maintains his or her certification as a peace officer during the term of his or her employment as a safety and security officer for an institution of higher education pursuant to KRS 164.950 to 164.980 may transfer his or her certification to a public agency in the same manner as a transfer between agencies and may maintain certification as a peace officer while seeking employment with another law enforcement agency if the requirements of KRS 164.950 to 164.980 continue to be met.

(5) The power of the Kentucky Law Enforcement Council to discipline a certified peace officer who is serving as a safety and security officer pursuant to KRS 164.950 to 164.980 shall not be limited by any provision of KRS 164.950 to 164.980.

Section 9. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
    (a) State Police officers, but for the commissioner of the State Police;
    (b) City, county, and urban-county police officers;
    (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
    (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
    (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
    (f) Airport safety and security officers appointed under KRS 183.880;
    (g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;[~~ and~~]
    (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040***; and***
    (i) Safety and security officers employed by private institutions of higher education appointed pursuant to KRS 164.950, provided that the institution employing the officer shall pay all of the costs of the training as determined by the Department of Criminal Justice Training.

(2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:
    (a) Deputy coroners;
    (b) Deputy constables;
    (c) Deputy jailers;
    (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
    (e) Officers appointed under KRS 61.360;
    (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
    (g) Private security officers;
    (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan

correctional services department created pursuant to KRS 67B.010 to 67B.080; and

(i) Investigators employed by the Division of Charitable Gaming in accordance with KRS 238.510.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;

(d) Jailers;

(e) Racing Commission security officers employed under KRS 230.240; and

(f) Commissioner of the State Police.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

HB 279, AN ACT relating to school health services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.501 is amended to read as follows:

(1) The Department of Education shall provide leadership and assistance to local school districts relating to student health services. The department, working in cooperation with the Department for Public Health, shall provide, contract for services, or identify resources to improve student health services, including but not limited to the following:

(a) Standardized protocols and guidelines for health procedures to be performed by health professionals and school personnel. The protocols and guidelines shall include but not be limited to the following:

1. The delegation of nursing functions consistent with administrative regulations promulgated by the Kentucky Board of Nursing;

2. Training of designated nonmedical school personnel; and

3. Appropriate documentation and recordkeeping including, but not limited to, notification to school administrators and parents or guardians of the provision of health services by a school employee, including certification of medical necessity for health services signed by a health care professional, and informed consent for the provision of health services by a parent or guardian.

A copy of the protocols and guidelines shall be made available to each school in the Commonwealth and shall be *accessible to school personnel*[~~maintained by each school in the school's library~~];

(b) Consultation, technical assistance, and development of quality improvement measures for the state and local boards of education, individual public schools, and local health departments;

(c) Facilitation of statewide and local data collection and reporting of school health services; and

(d) Information and resources that relate to the provision of school health services.

(2) The Department of Education shall establish a position to assist in carrying out the responsibilities required under subsection (1) of this section. The position may be established with existing personnel resources, or by contract, with an individual who:

(a) Holds, at a minimum, a bachelor's degree in nursing[~~ with a master's degree in nursing or a related field~~] from an accredited postsecondary institution; and

(b) Is a registered nurse licensed under the provisions of KRS Chapter 314.

(3) The Department of Education shall provide fifty percent (50%) of the costs for the position required by subsection (2) of this section and the Department for Public Health shall provide the remaining fifty percent (50%) for the position. The Department of Education may enter into a contractual arrangement, such as a Memorandum of Agreement, with the Department for Public Health to share the costs.

HB 320, AN ACT relating to participation of Head Start teachers in the Kentucky Teachers' Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.549 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by paying to the Teachers' Retirement System the[~~ full~~] actuarial cost of the service credit purchased, ***calculated on the basis of the actuarial cost at the time the service was earned, notwithstanding any other statutes to the contrary***[~~as provided in KRS 161.220(22)~~]. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

The Committee Substitute to **HB 320** is as follows:

HB 320, AN ACT relating to participation of Head Start teachers in the Kentucky Teachers' Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.549 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by ***purchasing this service credit under the same conditions that out-of-state service credit may be purchased under KRS 161.515***[~~paying to the Teachers' Retirement System the full actuarial cost of the service credit purchased, as provided in KRS 161.220(22)~~]. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

HB 341, AN ACT relating to the qualifications of Kentucky Board of Education members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.029 is amended to read as follows:

(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives of the General Assembly, with the president of the Council on Postsecondary Education serving as an ex officio nonvoting member. Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of ***the member's***[~~his~~] appointment or during the term of[~~ his~~] service shall be engaged as a professional educator ***in elementary or secondary education***. Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

HB 360, AN ACT relating to the Support Education Excellence in Kentucky Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.390 is amended to read as follows:

(1) For purposes of the state teacher salary schedule, teachers shall be placed on the schedule based on certification rank as established by the Education Professional Standards Board under KRS 161.1211 and by their years of experience as follows:

1. Zero (0) to three (3) years;
2. Four (4) to nine (9) years;
3. Ten (10) to fourteen (14) years;
4. Fifteen (15) to nineteen (19) years; and
5. Twenty (20) or more years.

(2) The rank and experience of the teacher shall be determined on September 15 of each year.

(3) The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.

(4) The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.

(5) The total amount of money distributable to each district from the public school fund shall include the base funding per pupil in average daily attendance, an amount for at-risk students, an amount for the types and numbers of students with disabilities, an amount for students served in home and hospital settings, and the allotments in subsections (3) and (4) of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6). ***The Kentucky Board of Education shall adopt an administrative regulation to provide a state adjustment for a local district whose local tax effort in the formula is greater than the local revenue that can be generated by the district and for purposes of KRS 157.440(1).***

(6) A classroom teacher or administrator may be provided additional compensation, funds for instructional and program materials, and other related costs for serving as a classroom mentor, teaching partner, or professional development leader in core discipline areas including reading, and other subject areas as appropriate to other education professionals in a state approved program or state approved activities. The Kentucky Department of Education shall administer the funds appropriated for these purposes. The Kentucky Board of Education shall promulgate administrative regulations to define the guidelines for programs and activities that qualify for funds including the application and approval process, the individual participant requirements, the amount of compensation, the timelines, and reporting requirements. The board shall solicit recommendations from the Education Professional Standards Board and staff of the Kentucky Department of Education in developing its administrative regulations.

HB 376, AN ACT relating to library science scholarships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.303 is amended to read as follows:

(1) There is hereby established a Library Science Scholarship Fund.

(2) The state librarian may grant scholarships for study in library science at an institution within the Commonwealth which is accredited by the American Library Association***, the National Council for the Accreditation of Teacher Education or the appropriate regional postsecondary education accrediting organization***[~~or the Southern Association of Colleges and Secondary Schools~~]. ***Scholarships may also be granted for study in an accredited library education program offered via distant learning technologies. Students applying for library education programs at institutions outside the Commonwealth that are likewise accredited may apply for assistance under this program if they agree to work in a library or archival services program within the Commonwealth upon their graduation in accordance with Section 2 of this Act.***

(3) The state librarian shall ***establish a Library Science Scholarship Fund Advisory Committee that will*** receive and consider all applications for scholarships for study in library science ***and shall advise the state librarian on the awarding of scholarships according to criteria they establish for this purpose***[~~and may grant a scholarship to applicants who are residents of this Commonwealth and who are deemed by the state librarian to be qualified. The state librarian shall make a careful and full investigation of the ability, character and qualifications of each applicant and may personally examine each applicant. The state librarian shall, whenever possible, grant financial assistance to the applicants with the greatest financial need, provided such persons are found to possess such qualities as give reasonable assurance of their successfully completing the course of study made possible by the scholarship~~].

(4) The department is authorized to receive money from any state, federal, private or other legal funding source approved by the appropriate state agency for scholarship purposes, and the amounts of individual scholarships shall be determined by the state librarian on the advice of the Library Science Scholarship Fund Advisory Committee, which shall set criteria for the assistance. Money designated for this fund shall be held in a restricted account and shall not lapse to the general fund.

Section 2. KRS 171.306 is amended to read as follows:

(1) To be eligible for a scholarship, an applicant shall contract in writing with the state librarian that he ***or she*** will ***graduate in an agreed to period of time and***[~~,~~] within six (6) months from the date ***of completing the program***[~~he completes his term~~] of study, accept employment with a library ***or archival services*** program approved by the state librarian for a period

of at least two (2) years[~~to be computed at the rate of one (1) year for each $1,000 received, or proportional time for less amounts~~]. ***The recipient shall agree to the terms of employment established by the employing library or archival services program.***

(2) If the recipient of a scholarship fails to fulfill ***the***[~~his~~] obligations ***agreed to*** under the contract for a scholarship the entire amount of scholarship benefits received[~~ less credit for time actually employed in an approved program plus six percent (6%) interest thereon~~] shall become ***immediately*** due and payable ***to the Library Science Scholarship Fund. Repayment of benefits received under this program shall be due in a lump sum or through a payment schedule determined by the state librarian on the advice of the Library Science Scholarship Fund Advisory Committee, and in accordance with current interest rates applicable to similar debts collected by other financial assistance entities***.

(3) Upon recommendation of the state librarian, the Attorney General shall institute proceedings for the purpose of recovering any amount due the Commonwealth under the provisions of this section.

[~~(4) The state librarian may terminate employment of a scholarship recipient if the performance of the recipient is found to be unsatisfactory. In such a case, if the obligations of the recipient are not completely fulfilled they are canceled.~~]

HCR 45, A CONCURRENT RESOLUTION confirming the reappointment of John R. Hall to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint thirteen citizen members to the Council on Postsecondary Education, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, the Governor has reappointed John R. Hall as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2008; and

WHEREAS, the House of Representatives and the Senate find that John R. Hall meets the requirements of KRS 164.0053 and KRS 164.011 for service on the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 164.011, hereby confirm the reappointment of John R. Hall to the Council on Postsecondary Education for a term expiring December 31, 2008.

Section 2. The Clerk of the House of Representatives shall notify Mr. John R. Hall, 101 Idle Hour Drive #4, Lexington, Kentucky 40502 and Governor Paul E. Patton, State Capitol, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

The Committee on Banking and Insurance reported **HB 25, HB 57, HB 112, HB 121,** with Committee Substitute and Committee Amendment attached thereto, **HB 191, HB 225, HB 251, HB 287,** with Committee Substitute attached thereto, **HB 369, HB 379,** and **HB 388** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 25, AN ACT relating to insurance continuing education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-295 is amended to read as follows:

(1) This section shall apply to individuals who hold licenses or lines of authority requiring continuing education.

(2) This section shall not apply to:

- (a) Limited lines of authority under agent licenses, as exempted by the commissioner in accordance with KRS 304.9-230;
- (b) Licensees not licensed for one (1) full year prior to the end of the applicable continuing education biennium;
- (c) Licensees holding nonresident licenses who have met the continuing education requirements of their home state and whose home state gives credit to Kentucky resident licensees on the same basis; or
- (d) Licensees maintaining their licenses for the sole purpose of receiving renewals or deferred commissions and providing the department with a supporting affidavit.

(3) A licensee, who holds an agent license and who is not exempt under subsection (2) of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) shall be classroom hours, during each continuing education biennium. A continuing education biennium shall begin on July 1 and end on June 30 two (2) years later.

(4) Only continuing education courses approved by the commissioner shall be used to satisfy the continuing education requirement of subsection (3) of this section and any other continuing education requirement of this chapter.

- (a) The continuing education courses which meet the commissioner's standards for continuing education requirements are:

1. Any part of the Life Underwriter Training Council life course curriculum;
2. Any part of the Life Underwriter Training Council health course curriculum;
3. Any part of the American College Chartered Life Underwriter diploma curriculum;
4. Any part of the American Institute for Property and Liability Underwriters' chartered property and casualty underwriter profession designation program;
5. Any part of the Insurance Institute of America's programs;
6. Any part of the certified insurance counselor program;
7. Any insurance related course taught at an accredited college or university, if the course is approved by the commissioner;
8. Any course of instruction or seminar developed or sponsored by any authorized insurer, recognized agent association, recognized insurance trade association, or any independent program of instruction, if approved by the commissioner;
9. Any correspondence course approved by the commissioner; and
10. Any course in accordance with provisions of reciprocal agreements the commissioner enters with other states.

(b) The commissioner shall prescribe the number of hours of continuing education credit for each continuing education course approved in accordance with this subsection. Continuing education courses submitted in accordance with a reciprocal agreement shall be approved according to the provisions of the reciprocal agreement.

(c) If a continuing education course requires successful completion of a written examination, no continuing education credit shall be given to licensees who do not successfully complete the written examination.

(d) The fee for filing continuing education courses for approval by the commissioner shall be as specified in Subtitle 4 of KRS Chapter 304.

(e) For continuing education courses of reciprocal states, continuing education providers shall be approved in accordance with the provisions of the reciprocal agreements.

(f) Each ethics course provided for members of the Kentucky General Assembly under KRS 6.711 and 6.716 shall be deemed approved by the commissioner for continuing education ethics credits under this section for licensees who are members of the Kentucky General Assembly.

(5) An individual teaching any approved continuing education course shall qualify for the same number of hours of continuing education credit as would be granted to a licensee taking and satisfactorily completing the course.

(6) Excess credit hours accumulated during any continuing education biennium may be carried forward. The commissioner may, by regulation, limit the number of hours carried forward.

(7) For good cause shown, the commissioner may grant an extension of time during which the continuing education requirement of subsection (3) of this section may be completed, but the extension of time shall not exceed two (2) years. What constitutes good cause for the extension of time rests within the discretion of the commissioner.

(8) Every licensee subject to this section shall furnish to the commissioner written certification as to the continuing education courses satisfactorily completed by the licensee. The certification shall be signed by or on behalf of the organization sponsoring the continuing education course. The certification shall be on a form prescribed by the commissioner.

(9) The license or line of authority requiring continuing education shall terminate if the individual holding the license or line of authority fails to comply with the continuing education requirement and has not been granted an extension of time to comply in accordance with subsection (7) of this section. If the license has terminated, the license shall be promptly surrendered to the commissioner without demand. If the line of authority has terminated but another line of authority not requiring continuing education is still in effect, the license shall be promptly delivered to the commissioner for reissuance as to the line of authority still in effect.

(10) The license of any individual subject to the continuing education requirement shall be suspended or revoked, a civil penalty imposed, or both, in accordance with KRS 304.9-440, if the individual submits to the commissioner a false or fraudulent certificate of compliance with the continuing education requirement.

HB 57, AN ACT relating to student credit cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.385 is amended to read as follows:

(1) For the purpose of borrowing money from a state or national bank for ***his or her***[~~their~~] own higher educational purposes, the disabilities of nonage of ***a minor***[~~minors~~] are removed for all purposes[~~, whether male or female~~]. Any minor is authorized to make and execute any and all promissory notes, contracts, or other instruments necessary[~~ to be executed by~~

~~him~~] in order to borrow money for his *or her* own higher educational purposes, and *the*[~~such~~] promissory notes, contracts, or other instruments shall have the same force and effect as though they were the obligations of *a person*[~~persons~~] over the age of[~~ their~~] majority. Any promissory note, contract, or other instrument entered into by any[~~ such~~] person pursuant to the provisions of this section shall have the approval of the parent or guardian of *the*[~~such~~] minor and of the financial officer of the institution of higher learning.

(2) Credit card companies, marketers, or their agents shall not offer gifts to students for filling out applications for student credit cards.

(3) (a) Public postsecondary institutions shall include credit card and debt education and counseling sessions as a part of campus orientation of new students.

(b) Nonpublic colleges and universities are encouraged to include credit card and debt education and counseling sessions as a part of campus orientation of new students.

(c) For purposes of this subsection, colleges and universities may utilize existing debt education material prepared by nonprofit entities and thus not incur the expense of preparing new materials.

(4) The Council on Postsecondary Education shall promulgate administrative regulations regarding student credit card marketing on public postsecondary campuses. The administrative regulations shall address the registration of marketing sites by campus administration and the number of sites to be permitted on a campus.

(5) A nonpublic college or university shall adopt a policy regarding student credit card marketing on campus as a requirement for licensure by the Council on Postsecondary Education provided by Section 2 of this Act, and is encouraged to adopt a policy that addresses the registration of marketing sites by campus administration and the number of sites to be permitted on a campus.

(6) (a) For the purposes of this section, "student credit card" means a credit card that is provided to a public or nonpublic college or university student:

1. Based solely on the student's enrollment at the institution; or

2. Who would not otherwise qualify for that credit card on the basis of his or her income.

(b) A "student credit card" does not include a credit card issued to a student who has a co-cardholder or cosigner who would otherwise qualify for a credit card other than a student credit card.

Section 2. KRS 164.947 is amended to read as follows:

(1) The Council on Postsecondary Education[~~ by regulation~~] shall*, by the promulgation of administrative regulations,* adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives. *The administrative regulations shall include a requirement that a college adopt a policy regarding student credit card marketing on campus as set forth in Section 1 of this Act.*

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of an independent institution or to restrict religious instruction or training in an independent institution.

(3) All colleges as defined in KRS 164.945 shall be required to hold a license issued by the *president*[~~executive director~~] of the Council on *Postsecondary*[~~Higher~~] Education[~~ or his successor~~], under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on *Postsecondary*[~~Higher~~] Education[~~, or its successor. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses~~].

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers, or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

HB 112, AN ACT relating to health insurance coverage for colorectal cancer detection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan issued or renewed on or after the effective date of this Act shall provide coverage on an expense-incurred basis for all colorectal cancer examinations and laboratory tests specified in current American Cancer Society guidelines for colorectal cancer screening of asymptomatic individuals, as follows:

(a) Coverage or benefits shall be provided for all colorectal screening examinations and tests that are administered at a frequency identified in the most recent version of the American Cancer Society guidelines for colorectal cancer.

(b) The covered individual shall be:

1. Fifty (50) years of age or older; or

2. Less than fifty (50) years of age and at high risk for colorectal cancer according to current colorectal cancer screening guidelines of the American Cancer Society.

(2) Coverage under this section shall not be subject to a separate deductible or separate coinsurance, but may be subject to the same deductible or coinsurance established for other laboratory, testing under the health benefit plan. Reimbursement to health care providers for colorectal cancer screenings provided under this section shall be equal to or greater than reimbursement to health care providers provided under Title XVIII of the Social Security Act.

HB 121, AN ACT relating to private passenger motor vehicle insurance premiums.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "private passenger motor vehicle insurance" means a motor vehicle insurance policy delivered or issued for delivery in Kentucky under which the insured motor vehicle is:

(a) A private passenger motor vehicle that is not used as a public or livery conveyance for passengers, nor rented to others; or

(b) Any other four (4)- wheel motor vehicle that weighs six thousand (6000) pounds or less which is not used in the occupation, profession, or business of the insured.

(2) With respect to private passenger motor vehicle insurance, the premium quotation provided to an applicant for insurance and the premium quotation provided to each insured in the notice of renewal shall separately identify the portion of the applicant's or insured's premium attributable to each rating factor used by the insurer in determining the applicant's or insured's premium.

(3) As to any person who has violated any provisions of this section, the commissioner may:

(a) Issue a cease and desist order to restrain the person from engaging in practices that violate this section;

(b) Suspend or revoke the person's license or certificate of authority;

(c) Assess a civil penalty against the person in accordance with KRS 304.99-020; or

(d) Take any combination of the actions specified in this subsection.

The Committee Substitute to **HB 121** is as follows:

HB 121, AN ACT relating to private passenger motor vehicle insurance premiums.

WHEREAS, most insureds are not aware of the rating factors used by private passenger motor vehicle insurers in determining rates and are not aware of the weight insurers give to the rating factors; and

WHEREAS, awareness of the rating factors used by insurers will make Kentucky insureds better consumers of insurance; and

WHEREAS, disclosure of rating factors and the weight given to each is a good business practice that all insurers should embrace; and

WHEREAS, although there are many different private passenger motor vehicle insurers offering many different policies in the Commonwealth, there must be a feasible method for insurers to make this disclosure;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Interim Joint Committee on Banking and Insurance is directed to study the feasibility of requiring insurers of private passenger motor vehicles to disclose the rating factors used in the development of rates and premiums and to separately identify the portion of the premium attributable to each rating factor at the time when a person is issued a policy and when an insured is sent a notice of renewal.

Section 2. The Department of Insurance shall cooperate with the Interim Joint Committee on Banking and Insurance in executing and completing this study.

Section 3. The Interim Joint Committee on Banking and Insurance shall report its findings to the Legislative Research Commission no later than December 1, 2003.

Section 4. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HB 121** is as follows:

HB 121, Amend the title to read as follows: "AN ACT directing the Interim Joint Committee on Banking and Insurance to study the feasibility of requiring insurers of private passenger motor vehicles, at the time when a person is issued a policy and when an insured is sent a notice of renewal, to disclose the rating factors used in the development of rates and premiums and to separately identify the portion of the premium attributable to each rating factor."

HB 191, AN ACT relating to personal motor vehicle insurance database.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "personal motor vehicle" means:

(a) A private passenger motor vehicle that is not used as a public or livery conveyance for passengers, nor rented to others; and

(b) Any other four-wheel motor vehicle that weighs six thousand (6000) pounds or less which is not used in the occupation, profession, or business of the insured.

(2) Beginning January 1, 2005, every insurance company that writes liability insurance on personal motor vehicles in Kentucky shall, between the first and fifteenth day of each month, send to the Department of Vehicle Regulation a list of the vehicle identification numbers (VIN) of each personal motor vehicle covered by liability insurance issued by the insurer as of the last day of the preceding month and the name of each personal motor vehicle insurance policyholder. The information shall be submitted either electronically or by paper copy at the option of the Department of Vehicle Regulation.

(3) In the absence of malice, fraud, or gross negligence, any insurer and any authorized employee of an insurer shall not be subject to civil liability for libel, slander, or any other relevant tort, and no civil cause of action of any nature shall arise against the insurer or authorized employee, for submission of the information required by subsection (2) of this section, including submission of inaccurate or incomplete information.

Section 2. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky ***pursuant to Sections 1 and 4 of this Act***. The department shall provide appropriate insurance information to the Governor's Office for Technology for inclusion in the AVIS database ***to assist in identifying uninsured motor vehicles***.

(2) ***(a)*** Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, ***or on and after January 1, 2005, if the vehicle identification number (VIN) of a personal motor vehicle does not appear in the database created by Section 1 of this Act for two (2) consecutive reporting months,*** the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

1.[~~(a)~~] The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS 186.180;

2.[~~(b)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

3.[~~(c)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

4.[~~(d)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(b)[~~(3)~~] The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by *paragraph (a) of this* subsection[~~ (2) of this section~~]. The notice that the department gives to the county attorney in accordance with *paragraph (a) of this* subsection[~~ (2) of this section~~] shall include a certified copy of the person's driving record which shall include:

1.[~~(a)~~] The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

2.[~~(b)~~] A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with *paragraph (a) of this* subsection[~~ (2) of this section~~].

(c)[~~(4)~~]The certified copies sent by the department described in *paragraph (b) of this* subsection[~~ (3) of this section~~], shall be prima facie evidence of a violation of KRS 304.39-080.

(d)[~~(5)~~] If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

(3) (a) In developing the mechanism to electronically transfer information pursuant to Section 1 of this Act, the commissioner of the Department of Vehicle Regulation shall consult with the commissioner of the Department of Insurance and insurers of personal motor vehicles to adopt a standardized system of organizing, recording, and transferring the information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators.

(b) Notwithstanding any other provision of law, information obtained by the department pursuant to Section 1 of this Act shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used, sold, accessed, utilized in any manner, or released by the department to any person, corporation, or state and local agency, except in response to a specific, individual request for the information authorized pursuant to the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department shall institute measures to ensure that only authorized persons are permitted to access the information for the purposes specified by this section. Persons who knowingly release or disclose information from the database created by Section 1 of this Act for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a Class A misdemeanor for each release or disclosure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) On and after January 1, 2005, a county clerk shall not process an application for, nor issue, a:

(a) Kentucky title and registration or renewal of registration;

(b) Replacement plate, decal, or registration certificate;

(c) Duplicate registration;

(d) Transfer of registration; or

(e) Temporary tag,

for any personal motor vehicle as defined in subsection (1) of Section 1 of this Act if AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, except as provided in subsection (2) of this section.

(2) If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the county clerk may process the application if the applicant has an insurance card that indicates the required security is currently in full force on the personal motor vehicle if the card was issued no more than forty-five (45) days before the application is submitted to the county clerk.

Section 4. KRS 304.39-085 is amended to read as follows:

(1) Every authorized insurance company shall, within one (1) calendar week following the end of its accounting month, send to the Department of Vehicle Regulation a list of all persons insured by it whose policy was terminated by either cancellation or nonrenewal during such accounting month, except those persons whose nonrenewal was at the end of a policy with a term of six (6) months or longer and who failed to make a payment for the renewal of the policy. Such list shall include a description of each vehicle insured under such terminating policy.

(2) It shall be lawful for an authorized insurance company to present the information required by subsection (1) of this section by compatible computer tape approved by the Department of Vehicle Regulation.

(3) On and after January 1, 2005, this section shall not apply to policies covering personal motor vehicles as defined in Section 1 of this Act.

Section 5. KRS 304.39-117 is amended to read as follows:

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle.

(2) The owner shall keep the card in his motor vehicle as prima facie evidence***, except as provided in subsection (3) of this section,*** that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(3) On and after January 1, 2005, as to personal motor vehicles as defined in Section 1 of this Act, the card and the database created by Section 1 of this Act shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept an insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was issued no more than forty-five (45) days before the date on which the peace officer requests the card.

Section 6. KRS 186.021 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration for renewal to any person who on January 1 of any year owned a motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are delinquent.

(2) Pursuant to KRS 134.810(4), the owner as defined in KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for taxes due on a motor vehicle. A person other than the owner of record who applies to a county clerk to transfer the registration of a motor vehicle may pay any delinquent ad valorem taxes due on the motor vehicle to facilitate the county clerk's transferring registration of the motor vehicle. The person applying shall not be required to pay delinquent ad valorem taxes due on any other motor vehicle owned by the owner of record from which he is purchasing his motor vehicle as a condition of registration.

(3) A county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration renewal for any motor vehicle that is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in administrative regulations issued by the Department of Insurance. ***On and after January 1, 2005, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***

Section 7. KRS 186.180 is amended to read as follows:

(1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.

(2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars ($3) for each plate and a fee of three dollars ($3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet.

The fee for this registration shall be five dollars ($5) of which the clerk shall be entitled to three dollars ($3) and the cabinet shall be entitled to two dollars ($2).

(4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of:

(a) Insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet; or

(b) A valid compliance or exemption certificate in compliance with KRS 224.20-720 or issued under the authority of an air pollution control district under KRS 224.20-760.

(5) The owner of a motor vehicle that has the vehicle's registration revoked under KRS 186.290 shall pay to the clerk a fee of twenty dollars ($20), which shall be equally divided between the county clerk and the cabinet.

(6) On and after January 1, 2005, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance required under this section shall be determined by the county clerk as provided in Section 3 of this Act.

Section 8. KRS 186.190 is amended to read as follows:

(1) When a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon the motor vehicle as a part of it until the expiration of the registration year.

(2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner. Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Department of Insurance pursuant to KRS Chapter 13A. ***On and after January 1, 2005, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***

(3) Upon delivery of the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1), which shall be remitted to the Transportation Cabinet. If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of three dollars ($3) for his services.

(4) When a county clerk issues to a purchaser a transfer of registration in a county other than the one (1) in which the motor vehicle was originally registered, the clerk shall immediately forward one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall return the plate and motor vehicle registration receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar ($1) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The motor vehicle registration receipt issued by the clerk under this section shall contain information required by the Department of Vehicle Regulation.

Section 9. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for thirty (30) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2), of which the clerk shall retain one dollar ($1). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.

(5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. A temporary tag authorized by this subsection shall be used for emergency or unusual purposes as determined by the clerk for the purpose of maintaining the owner's current registration. A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. A county clerk shall not issue a temporary tag authorized by this subsection unless the owner of the motor vehicle applying for the tag presents proof of motor vehicle insurance pursuant to KRS 304.39-080. ***On and after January 1, 2005, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.*** A temporary tag issued pursuant to this subsection shall not be reissued by the county clerk for the same owner and same motor vehicle within one (1) year of issuance of a temporary tag.

HB 225, AN ACT relating to annuities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-315 is amended to read as follows:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) of this section, no contract of annuity, except as stated in subsection (2) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10) of this section.

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10) of this section. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars ($20) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as

defined in this section.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

1. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum; and
2. The amount of any indebtedness to the insurer on the contract, including interest due and accrued;

and increased by any existing additional amounts credited by the insurer to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross consideration credited to the contract during that contract year less an annual contract charge of thirty dollars ($30) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(b) ***Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2003, and before July 1, 2005, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated for the purpose of determining nonforfeiture amounts shall be no less than one and one-half percent (1.5%) per annum.***

(c) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.
2. The annual contract charge shall be the lesser of,
    a. Thirty dollars ($30), or
    b. Ten percent (10%) of the gross annual consideration.

(d)[~~(c)~~] With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars ($75).

(5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the

contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(8) For the purpose of determining the benefits calculated under subsections (6) and (7) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(9) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8), and (10) of this section, additional benefits payable

(a) In the event of total and permanent disability,

(b) As reversionary annuity or deferred reversionary annuity benefits, or

(c) As other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits,

shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(12) After June 17, 1978, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before June 17, 1980. After the filing of such notice, then upon such specified date, this section shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be June 17, 1980.

HB 251, AN ACT relating to real property transactions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.050 is amended to read as follows:

(1) Any mortgage taken to secure a loan made for the purpose of ***improving real property by*** erecting, improving***,*** or adding to a building shall state such facts.

(2) ***Any mortgage taken in whole or in part to secure a loan for the permanent financing of improvements to real property initially financed by a loan of the type described in subsection (1) of this section shall state such facts.***

(3) No person shall willfully misappropriate or misapply the proceeds received from[~~ such~~] a loan ***of the type described in subsections (1) and (2) of this section.***

(4) For purposes of this section, a person shall be deemed to have willfully misappropriated or misapplied the proceeds received from such loans if the person deposits the proceeds in any account which the person or an affiliate controls either directly or indirectly.

Section 2. KRS 376.070 is amended to read as follows:

(1) Any contractor, architect or other person who builds, repairs or improves the ***real*** property of another under such circumstances that a mechanic's or materialman's lien may be imposed on the property shall, from the proceeds of any payment received from ***or on behalf of*** the owner, pay in full all persons who have furnished material or performed labor on the property.

(2) If any payment by ***or on behalf of*** the owner to the contractor, architect or other person is not sufficient to pay in full all bills for material and labor, then such claims shall be paid on a pro rata basis to the amount of payments received, unless otherwise agreed between the contractor, architect or other person and the holder of the claim for material or labor.

(3) This section shall not apply where persons furnishing material or performing labor have waived in writing their right to file mechanics' or materialmen's liens.

(4) No person shall willfully misappropriate or misapply payments received in accordance with subsections (1) or (2) of

this section.

(5) For purposes of this section, a person shall be deemed to have willfully misappropriated or misapplied payments received in accordance with subsection (1) or (2) of this section if the person deposits the proceeds in any account which the person or an affiliate controls either directly or indirectly.

Section 3. KRS 376.990 is amended to read as follows:

[~~(1)~~]Any person who violates the provisions of subsection *(3) of Section 1 of this Act, KRS 376.060, or subsection (4) of Section 2 of this Act*[~~(2) of KRS 376.050~~] shall be guilty of a*:*

(1) Class A misdemeanor if the amount willfully misappropriated or misapplied is less than three hundred dollars ($300); or

(2) Class D felony *if the amount willfully misappropriated or misapplied is three hundred dollars ($300) or more*.

[~~(2) Any person who violates any of the provisions of KRS 376.060 or 376.070 shall be guilty of a Class A misdemeanor.~~]

SECTION 4. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

(1) The seller of any real property shall, at the closing of the purchase of the real property, execute and deliver to the purchaser, or the purchaser's agent, an affidavit stating that the seller has paid, or will pay, each person in full for all labor and materials used in the construction of improvements on the real property and that the seller is not indebted to any person by reason of any construction.

(2) A person commits an offense if the person intentionally, knowingly, or recklessly makes a false or misleading statement in an affidavit under this section. An offense under this section is a Class A misdemeanor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

Any contract to build, repair, or improve real property between the owner of the real property and a contractor, architect, or other person, which requires the owner to obtain a mortgage on the subject property from a third party lender to secure payment of the contract price, shall also require that all payments, draws, or advances from the lender be made payable jointly to the owner and the contractor, architect, or other party to the contract. Alternatively, the contract may provide that the lender shall make payments, draws, or advances directly to the contractor, architect, or other party to the contract upon the owner's authorization.

SECTION 6. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

As used in Sections 6 to 15 of this Act, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of the Department of Financial Institutions.

(2) "Escrow" means written instruments, money, or other items deposited by a party with a settlement agent for delivery to other persons upon the performance of specified conditions or the happening of a certain event.

(3) "Escrow, closing, or settlement services" means the administrative and clerical services required to carry out the terms of contracts affecting real estate. These services include, but are not limited to, placing orders for title insurance, receiving and issuing receipts for money received from the parties, ordering loan checks and payoffs, ordering surveys and inspections, preparing settlement statements, determining that all closing documents conform to the parties' contract requirements, setting the closing appointment, following up with the parties to ensure that the transaction progresses to closing, ascertaining that the lenders' instructions have been satisfied, conducting a closing conference at which the documents are executed, receiving and disbursing funds, obtaining and recording mortgage and lien releases, completing form documents and instruments selected by and in accordance with instructions of the parties to the transaction, handling or arranging for the recording of documents, sending recorded documents to the lender, sending the recorded deed and the title policy to the buyer, and reporting federal income tax information for the real estate sale to the Internal Revenue Service.

(4) "Licensing authority" means the state or federal entity that licensed the attorney, title insurance company, title insurance agent, real estate broker, or financial institution that acts in the capacity of a settlement agent under Sections 6 to 15 of this Act.

(5) "Party to the real estate transaction" means, with respect to that real estate transaction, a lender, seller, purchaser, or borrower, and with respect to a corporate purchaser, any entity which is a subsidiary of or under common ownership with that corporate purchaser.

(6) "Person" means a natural person, partnership, association, cooperative, corporation, limited liability company, trust, or other legal entity.

(7) "Qualified financial institution" has the same meaning as provided in Section 16 of this Act.

(8) "Settlement agent" means a person other than a party to the real estate transaction who provides escrow, closing, earnest money deposit, or settlement services in connection with a transaction related to real estate in this Commonwealth and who is listed as the settlement agent on the settlement statement for such transaction. Any person, other than a party to the transaction, who conducts the settlement conference and receives or handles money shall be deemed a "settlement agent" subject to the applicable requirements of Sections 6 to 15 of this Act.

(9) "Settlement statement" means the statement of receipts and disbursements for a transaction related to real estate,

including but not limited to a statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. Sec. 2601 et seq., as amended, and the regulations thereunder.

SECTION 7. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

Sections 6 to 15 of this Act shall apply only to transactions involving the cash purchase of or lending on the security of real estate located in this Commonwealth consisting of one (1) to four (4) residential dwelling units.

SECTION 8. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not act in the capacity of a settlement agent, and a lender, seller, purchaser, or borrower may not contract with any person to act in the capacity of a settlement agent with respect to real estate settlements in this Commonwealth unless the person is licensed as an attorney in Kentucky, the person is licensed as a title insurance agent under KRS Chapter 304, the person is licensed as a real estate broker under KRS Chapter 324, or the person is a financial institution authorized to do business in this Commonwealth under any of the provisions of KRS Chapters 287 and 290, or under federal law, or is a subsidiary or affiliate of such financial institution. A title insurance agent not acting in the capacity of a settlement agent shall not be subject to the provisions of Sections 6 to 15 of this Act.

(2) A settlement agent operating in compliance with the requirements of Sections 6 to 15 of this Act or a party to the real estate transaction may provide escrow, closing, or settlement services and receive compensation for such services.

(3) A settlement agent shall exercise reasonable care and shall comply with all applicable requirements of Sections 6 to 15 of this Act and its licensing authority regarding licensing, financial responsibility, errors and omissions or malpractice insurance policies, fidelity bonds, employee dishonesty insurance policies, audits, escrow account analyses, and record retention.

(4) All settlement statements for transactions related to real estate governed by Sections 6 to 15 of this Act shall be in writing and shall identify, by name and business address, the settlement agent.

SECTION 9. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

All contracts, including new construction purchase contracts, involving the purchase of real estate consisting of one (1) to four (4) residential dwelling units shall include in bold face, ten-point type the following language:

"*Role of Settlement Agent: You are encouraged to use the services of a settlement agent registered under Section 13 of this Act in the closing of your transaction. The settlement agent's role in closing your transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, your lender will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Kentucky and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party.*

Escrow, closing and settlement service guidelines: If a Supreme Court Rule defines what is the unauthorized practice of law in connection with furnishing escrow, settlement, or closing services and such rule has been set forth in a pamphlet issued by the Kentucky Bar Association, as a party to a real estate transaction you are entitled to receive a copy of the pamphlet from your settlement agent, upon request, in accordance with the provisions of Section 6 to 15 of this Act.

Title Insurance: A title insurance policy is not the same as a homeowner's insurance policy. If you are financing the purchase of real estate, your lender may require you to purchase a "lender's title insurance policy," which will protect the lender up to the amount of your loan. You should understand that this form of title insurance does not protect your interests in the real estate you are purchasing. You are encouraged to seek advice from a title insurance agent for an explanation of the benefits of title insurance regardless of whether you are financing or paying cash for the purchase of your real estate. In either instance an "owner's title insurance policy" which will protect your interests is recommended, but is not required."

SECTION 10. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) All funds deposited with the settlement agent in connection with an escrow, settlement, closing, or earnest money deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified financial institution no later than the close of the next business day, in accordance with the following requirements:

(a) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, earnest money deposit, or closing agreement and shall be segregated for each depository by escrow, settlement, earnest money deposit, or closing in the records of the settlement agent in a manner that permits the funds to be identified on an individual basis; and

(b) The funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted.

(2) Funds held in a post-closing escrow account shall be disbursed only pursuant to a written instruction or agreement specifying how and to whom such funds may be disbursed.

(3) Any interest received on funds deposited in connection with any escrow, settlement, earnest money deposit, or closing shall be paid, net of administrative costs, to the depositing party, unless the instructions for the funds or a governing

statute provides otherwise.

(4) Disbursements may be made out of an escrow, settlement, or closing account only if deposits directly relating to the transaction disbursed against, in amounts at least equal to the disbursement, have first been made.

(5) A settlement agent shall comply with the escrow account audit requirements mandated by law or by its particular licensing authority.

(6) Nothing in Sections 6 to 15 of this Act shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction, provided all parties consent to the transaction in writing.

(7) Nothing in this section is intended to amend, alter, or supersede other sections of Sections 6 to 15 of this Act, or the laws of this state or the United States, regarding an escrow holder's duties and obligations.

(8) The commissioner may promulgate administrative regulations prescribing a standard agreement for escrow, settlement, closing, or earnest money deposit funds.

SECTION 11. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

No settlement agent shall intentionally make any materially false or misleading statement or entry on a settlement statement. An estimate of charges made in good faith by a settlement agent, and indicated as such on the settlement statement, shall not be deemed to be a violation of this section.

SECTION 12. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

The settlement agent shall maintain sufficient records of its affairs so that the appropriate licensing authority may adequately ensure that the settlement agent is in compliance with all provisions of Sections 6 to 15 of this Act. The settlement agent shall retain records pertaining to each settlement handled for a minimum of five (5) years after the settlement is completed. The appropriate licensing authority may prescribe the specific record entries and documents to be kept.

SECTION 13. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) (a) Every settlement agent subject to the provisions of Sections 6 to 15 of this Act shall register as such with the commissioner by September 30, 2003, and biennially thereafter. In conjunction therewith, settlement agents shall furnish:

1. Their names, business addresses, and telephone numbers;

2. Information pertaining to licenses issued them by any licensing authority; and

3. Such other information as may be required by the commissioner.

(b) The commissioner shall accept, in satisfaction of the requirements of this subsection, settlement agents' licensing forms submitted to any licensing authority, as defined in Section 6 of this Act, if such forms contain substantially the same information required by this section. Each such registration shall be accompanied by a fee not to exceed one hundred dollars ($100). The registration shall be renewed biennially and shall be accompanied by a renewal fee in the amount of one hundred dollars ($100).

(2) The commissioner shall receive complaints concerning settlement agent or financial institution noncompliance with the provisions of subsection (1) of this section and shall:

(a) Investigate the same to the extent they concern any matter within the commissioner's jurisdiction;

(b) Refer to the Kentucky Bar Association all complaints concerning the unauthorized practice of law or any other matter within the Kentucky Bar Association's jurisdiction; and

(c) Refer complaints and other relevant information in writing to the appropriate licensing authority pursuant to Section 14 of this Act.

(3) Any settlement agent who willfully fails to comply with the provisions of this section shall be subject to a penalty of up to five thousand dollars ($5,000) for each such failure.

SECTION 14. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) If the commissioner receives complaints or knows or has reasonable cause to believe that a settlement agent licensed by a licensing authority has willfully violated any provision of Sections 6 to 15 of this Act, or any administrative regulation promulgated under Sections 6 to 15 of this Act, the commissioner shall refer complaints and other relevant information in writing to the appropriate licensing authority which shall immediately review the matter and take appropriate action allowed the licensing authority under this section or under any other law or regulation.

(2) If, after notice and the opportunity to be heard in compliance with KRS Chapter 13B, a licensing authority determines that a settlement agent licensed by the licensing authority has willfully violated any provision of Sections 6 to 15 of this Act, or any administrative regulation promulgated under Sections 6 to 15 of this Act, the licensing authority may order one (1) or more of the following:

(a) A penalty not exceeding five thousand dollars ($5,000) for each violation;

(b) Revocation or suspension of the applicable licenses; and

(c) Restitution to a party to the real estate transaction to be made by the person violating any provision of Sections 6 to 15 of this Act in the amount of any actual, direct financial loss.

(3) If, after notice and the opportunity to be heard in compliance with KRS Chapter 13B, the commissioner determines that any person who does not hold a license from a licensing authority has violated any provision of Sections 6 to 15 of this Act or any administrative regulation promulgated under Sections 6 to 15 of this Act, the commissioner may take one (1) or more of the following actions:

(a) Impose a penalty not exceeding five thousand dollars ($5,000) for each violation;

(b) Seek a temporary or permanent injunction or a restraining order requiring the person to cease and desist from engaging in such act or practice;

(c) Require restitution to a party to the real estate transaction to be made by the person violating any provision of Sections 6 to 15 of this Act in the amount of any actual, direct financial loss.

(4) Nothing in this section shall affect the right of the appropriate licensing authority to impose any other penalties provided by law or regulation. Notwithstanding any provision contained in this section to the contrary, as to that portion of any complaint by a party to the real estate transaction arising under Sections 6 to 15 of this Act or any administrative regulation promulgated under Sections 6 to 15 of this Act relating to the unauthorized practice of law, the Kentucky Bar Association, after complying with applicable law and regulations relating to unauthorized practice of law complaints and concluding that the activity was not authorized by statute or administrative regulation, may refer that portion of the complaint to the Attorney General of Kentucky or a Commonwealth's Attorney who shall have the power, in addition to any other powers conferred on him by law, to seek the issuance of a temporary or permanent injunction or restraining order against any person violating any provision of Sections 6 to 15 of this Act or any administrative regulation promulgated under Sections 6 to 15 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

Sections 6 to 15 of this Act may be cited as the Kentucky Real Estate Settlement Protection Act.

SECTION 16. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 16 to 26 of this Act, unless the context requires otherwise:

(1) "Abstract of title" or "abstract" means a written history, synopsis, or summary of the recorded instruments affecting the title to real property;

(2) "Escrow" means written instruments, money, or other items deposited by one (1) party with a depository, escrow agent or escrow for delivery to another party upon the performance of a specified condition or the happening of a certain event;

(3) "Person" means a natural person, partnership, association, cooperative, corporation, trust, or other legal entity;

(4) "Qualified financial institution" means an institution that is:

(a) Organized or, in the case of a U.S. branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state and has the authority to operate with fiduciary powers;

(b) Regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies;

(c) Insured by the appropriate federal entity; and

(d) Qualified under any additional rules established by the commissioner;

(5) "Title insurance agent" or "agent" means an authorized person who, on behalf of the title insurer, performs the following acts in conjunction with the issuance of a title insurance report or policy:

(a) Determines insurability and issues title insurance reports or policies, or both, based upon the performance or review of a search, or an abstract of title; and

(b) Performs one (1) or more of the following functions:

1. Collects or disburses premiums, escrow funds, earnest money deposits, or other funds;

2. Handles escrow, settlements, or closings;

3. Solicits or negotiates title insurance business; or

4. Records closing documents;

(6) "Title insurance business" or "business of title insurance" means:

(a) Issuing as insurer or offering to issue as insurer a title insurance policy;

(b) Transacting or proposing to transact by a title insurance agent any of the following activities when conducted or performed in contemplation of, or in conjunction with, the issuance of a title insurance policy:

1. Soliciting or negotiating the issuance of a title insurance policy;

2. Guaranteeing, warranting, or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units and proprietary leases, and for all liens or charges affecting the same;

3. Handling of escrow, settlements, or closings;

4. Executing title insurance policies;

5. Effecting contracts of reinsurance; or

6. Abstracting, searching, or examining titles;

(c) Guaranteeing, warranting, or insuring searches or examinations of title to real property or any interest in real property;

(d) Guaranteeing or warranting the status of title as to ownership of, or liens on, real property and personal property by any person other than the principals to the transaction; or

(e) Doing or proposing to do any business substantially equivalent to any of the activities listed in this subsection in a manner designed to evade the provisions of Sections 16 to 26 of this Act;

(7) "Title insurance policy" or "policy" means a contract insuring or indemnifying owners of, or other persons lawfully interested in, real or personal property or any interest in real property, against loss or damage arising from any or all of the following conditions existing on or before the policy date and not excepted or excluded:

(a) Defects in or liens or encumbrances on the insured title;

(b) Unmarketability of the insured title;

(c) Invalidity, lack of priority, or unenforceability of liens or encumbrances on the stated property;

(d) Lack of legal right of access to the land; or

(e) Unenforceability of rights in title to the land;

(8) "Title insurance report" or "report" means a preliminary report, commitment, or binder issued prior to the issuance of a title insurance policy containing the terms, conditions, exceptions, and any other matters incorporated by reference under which the title insurer is willing to issue its title insurance policy;

(9) "Title insurer" or "insurer" means a company organized under laws of this state for the purpose of transacting the business of title insurance and any title insurer incorporated or organized under the laws of any other state of the United States, the District of Columbia, any other jurisdiction of the United States, or any foreign nation, province, or territory to transact the business of title insurance;

(10) "Underwrite" means the authority to accept or reject on behalf of the title insurer.

SECTION 17. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not act in the capacity of a title insurance agent and a title insurer may not contract with any person to act in the capacity of a title insurance agent with respect to risks located in this state unless the person is duly appointed by a title insurer and is a licensed title insurance agent in this state.

(2) An individual employed by a licensed insurance agent to whom the agent delegates authority to act on that agent's behalf shall be either individually licensed or be named on the employing agent's license. Each person named on the license shall possess all qualifications determined by the department to be appropriate. The commissioner may promulgate administrative regulations to establish requirements relating to licensing and practices of persons acting in the capacity of title insurance agents. These persons may include title insurance agents, employees of title insurance agents, and persons acting on behalf of title insurance agents. This subsection is not intended to include persons performing clerical functions.

(3) A title insurance agent licensed in this state prior to the effective date of Sections 16 to 26 of this Act shall have ninety (90) days after the effective date of Sections 16 to 26 of this Act to comply with the requirements of this section unless extended by the commissioner.

(4) (a) The commissioner shall require the title insurance agent and any delegate performing the title search to maintain the following for the benefit of any aggrieved party in amounts commensurate with the agent's average exposure, under terms and conditions, and from insurers, acceptable to the commissioner:

1. An errors and omissions or malpractice insurance policy providing a minimum coverage of two hundred fifty thousand dollars ($250,000) per claim; and

2. A blanket fidelity bond or employee dishonesty insurance policy covering persons employed by the settlement agent and providing a minimum of fifty thousand dollars ($50,000) in coverage. When the settlement agent has no employees except the owners, partners, shareholders, or members, the settlement agent may apply to the appropriate licensing authority for a waiver of this fidelity bond or employee dishonesty insurance requirement.

(b) The commissioner may promulgate administrative regulations specifying acceptable alternatives to the insurance requirements of this subsection. The availability of closing or settlement protection shall not be construed to be an acceptable alternative to the requirements of this subsection.

SECTION 18. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may, during normal business hours, examine, audit, and inspect any and all books and records maintained by a title insurance agent under the provisions of Sections 16 to 26 of this Act.

SECTION 19. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) When constituting an offer to issue an owner's title insurance policy covering the resale of owner-occupied residential property, a title insurance report shall be furnished to the purchaser-mortgagor or its representative at closing. If the report cannot be delivered prior to the day of closing, the title insurer shall document the reasons for the delay. The report furnished to the purchaser-mortgagor shall incorporate the following statement on the first page in bold type:

"*Please read the exceptions and the terms shown or referred to herein carefully. The exceptions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered. It is important to note that this form is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.*"

(2) A title insurance agent issuing a lender's title insurance policy in conjunction with a mortgage loan made simultaneously with the purchase of all or part of the real estate securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form prescribed or approved by the commissioner, to the purchaser-mortgagor at the time the commitment is prepared. The notice shall explain that a lender's title insurance policy is to be issued protecting the mortgage-lender, and that the policy does not provide title insurance protection to the purchaser-mortgagor as the owner of the property being purchased. The notice shall explain what a title policy insures against and what possible exposures exist for the purchaser-mortgagor that could be insured against through the purchase of an owner's policy. The notice shall also explain that the purchaser-mortgagor may obtain an owner's title insurance policy protecting the property owner at a specified cost or approximate cost, if the proposed coverages or amount of insurance is not then known. A copy of the notice, signed by the purchaser-mortgagor, shall be retained in the relevant underwriting file at least five (5) years after the effective date of the policy.

SECTION 20. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A title insurance agent may operate as a settlement agent if the title insurance agent complies with the provisions of Sections 6 to 15 of this Act.

SECTION 21. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The title insurance agent shall maintain sufficient records of its affairs, including its escrow operations and escrow trust account, for a period of five (5) years so that the commissioner may adequately ensure that the title insurance agent is in compliance with all provisions of Sections 16 to 26 of this Act. The commissioner may promulgate administrative regulations prescribing the specific record entries and documents to be kept.

SECTION 22. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A title insurance agent shall be subject to all other applicable provisions of this chapter, including continuing education requirements in Subtitle 9 of this chapter, unless specifically addressed by Sections 16 to 26 of this Act.

SECTION 23. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations necessary to carry out the provisions of Sections 16 to 26 of this Act.

SECTION 24. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the commissioner determines that the title insurance agent or any other person has violated Sections 16 to 26 of this Act, or any administrative regulation promulgated under Sections 16 to 26 of this Act, then after notice and opportunity to be heard, the commissioner may order:

(a) A penalty not exceeding five thousand dollars ($5,000) for each violation; and

(b) Revocation or suspension of the title insurance agent's license.

(2) If an order of rehabilitation or liquidation of the insurer has been entered pursuant to Subtitle 33 of this chapter, and the receiver appointed under that order determines that the title insurance agent or any other person has not complied with Sections 17 to 27 of this Act, or any related administrative regulation, and the insurer suffered any resulting loss or damage, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer and its policyholders and creditors.

(3) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in this chapter.

(4) Nothing contained in Sections 16 to 26 of this Act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and creditors.

SECTION 25. A NEW SECTION OF SUBTITLE 22 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 16 to 26 of this Act may be cited as the Kentucky Title Insurance Agent Act.

Section 26. Sections 16 to 26 of this Act take effect on July 15, 2003.

HB 287, AN ACT relating to mortgage loans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 294.010 is amended to read as follows:

Unless the context otherwise requires:

(1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with another person;

(2) "Department" means the Department of Financial Institutions;

(3) "Commissioner" means the commissioner of financial institutions;

(4) "Mortgage loan" means any loan secured by a mortgage on residential real property or any loan secured by collateral which has a mortgage lien interest in residential real property;

(5) "Residential real property" means any single family residence or multiple dwelling structure containing four (4) or less single dwelling units for four (4) or less family units, living independently of each other, or any single family condominium unit;

(6) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries is evidenced by a security, an unincorporated organization, a government, a political subdivision of a government, or any other group however organized;

(7) "Mortgage loan company" means any person who directly or indirectly:

  (a) Holds himself out as being able to make or purchase loans secured by mortgages on residential real property;

  (b) Holds himself out as being able to service loans secured by mortgages on residential real property; and

  (c) Holds himself out as being able to buy or sell notes secured by mortgages on residential real property;

(8) "Mortgage loan broker" means any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly:

  (a) Holds himself out as being able to serve as an agent for any person in an attempt to obtain a loan which will be secured by a mortgage on residential real property; or

  (b) Holds himself out as being able to serve as an agent for any person who has money to loan, which loan is or will be secured by a mortgage on residential real property.

  "Mortgage loan broker" does not mean a person who performs functions of a loan processor, nor does it mean a person who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company;

(9) "Loan officer" or "originator" means an individual who discusses or negotiates the rates, terms, and conditions of a loan with a borrower or prospective borrower. The term does not mean a person who performs functions of a loan processor, nor does it mean an individual who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company;

(10) "Loan processor" means an individual who works under the instruction of a loan officer or mortgage loan broker and performs only clerical functions such as gathering information, requesting information, word processing, sending correspondence, or assembling files; and

(11) "Classroom" means a physical classroom environment in which teachers and participants are physically present for the teaching of a course. Courses taught through the Internet, mail, or correspondence classes shall not be considered to be courses taught in a classroom.

Section 2. KRS 294.020 is amended to read as follows:

(1) The following shall be exempt from this chapter:

  (a) Any person duly licensed, chartered, or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency under the laws of this state or any other state or the United States as a bank, bank holding company, trust company, credit union, savings and loan association, service corporation subsidiary of savings and loan associations, consumer loan or finance company, industrial loan company, insurance company, real estate investment trust as defined in 26 U.S.C. sec. 856, an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended, or ***any*** wholly owned subsidiary ***or***

affiliate, or any mortgage loan broker, loan officer, originator, or loan processor employed by any such person, or by a subsidiary or affiliate of any institution listed in this paragraph if the institution maintains a place of business in Kentucky;

(b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;

(c) Any person doing any act under order of any court;

(d) The United States of America, the Commonwealth of Kentucky, or any other state, and any Kentucky city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the foregoing;

(e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA); ***and***

(f)[~~With the approval of the commissioner, an independent contractor that solicits mortgage loans for only one (1) licensed mortgage loan company or licensed mortgage loan broker may be exempted from obtaining a license under this chapter if:~~

~~1. The licensed mortgage loan company or licensed mortgage loan broker notifies the department that it will assume legal responsibility for the actions of the independent contractor in complying with the provisions of KRS Chapter 294; and~~

~~2. The licensed mortgage loan company or licensed mortgage loan broker provides the department with proof that its bond will cover the independent contractor; and~~

(~~g~~)] Any mortgage loan involving housing initially transferred by certificate of title under KRS Chapter 186A.

(2) The following shall be exempt from all the provisions of this chapter except that they shall be subject to the examination or investigation provisions of KRS 294.170(4), (5), and (6), 294.180, and 294.190 if it appears on grounds satisfactory to the commissioner, on written complaint, that an examination or investigation is necessary***;***[~~,~~] and they shall be subject to the prohibited acts provisions of KRS 294.220***; and any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company or mortgage loan broker regulated by the Department of Housing and Urban Development shall be subject to Sections 6 and 7 of this Act***:

(a) Mortgage loan companies or mortgage loan brokers regulated by the Department of Housing and Urban Development;

(b) Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;

(c) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Department of Financial Institutions;

(d) Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when the person renders the services in the course of his or her practice as a real estate broker or real estate associate; and

(e) Any person making less than five (5) mortgage loans per year***, who shall notify the Department of Financial Institutions of each loan made, in such written form and manner as required by the department***.

(3) Any person relying upon an exemption under subsection (2)***(a),*** (c)***,*** or (d) of this section shall file with the commissioner a claim of exemption. The commissioner shall thereafter determine the availability of the claimed exemption and he shall not disallow an exemption that is validly claimed.

(4) Any person listed in subsection (1)(a), (b), (c), (d), or (e) of this section shall not be required to file with the commissioner a claim of exemption.

(5) (a) Any natural person making a loan under subsection (2)(b) of this section shall make the following disclosure, on a separate sheet of paper in minimum eighteen (18) point type, to the borrower:

DISCLOSURE

(Name and address of lender) is not licensed or regulated by the Kentucky Department of Financial Institutions.

(Name of lender) is making this mortgage loan with his or her own funds, for the person's own investment, without intent to resell the mortgage loan.

(The phone number and address of the Kentucky Department of Financial Institutions.)

(b) A copy of the disclosure, signed by the borrower, shall be maintained by the natural person for a period not to exceed three (3) years after the date the mortgage loan is paid in full.

(c) This subsection shall not apply to a natural person under subsection (2)(b) of this section making less than five (5) mortgage loans per year.

Section 3. KRS 294.030 is amended to read as follows:

(1) (a) It is unlawful for any person to transact business in this state, either directly or indirectly, as a mortgage loan company or mortgage loan broker if he is not licensed under this chapter ***and registered in accordance with***

Section 6 of this Act, unless that person is exempt under KRS 294.020 and, if required by KRS 294.020(3) to file a claim of exemption, has filed a claim of exemption and the filed claim of exemption has been allowed by the commissioner.

(b) It is unlawful for any natural person to make a loan under KRS 294.020(2)(b) without making the disclosure required by KRS 294.020(5).

(c) It is unlawful for any loan officer, unless otherwise exempted, to originate mortgage loans in Kentucky if the loan officer is not registered in accordance with Section 6 of this Act.

(2) Neither the fact that a license has been issued nor the fact that any person, business, or company is effectively registered, constitutes a finding by the commissioner that any document filed under this chapter is true, complete, and not misleading. Nor does such fact directly or indirectly imply approval of the registrant by the commissioner or the Commonwealth of Kentucky. It is unlawful to make or cause to be made to any prospective customer or client any representation inconsistent with this subsection.

(3) Any person who willfully transacts business in this state in violation of subsection (1) of this section shall have no right to collect, receive, or retain any interest or charges whatsoever on a loan contract, but the unpaid principal of the loan shall be paid in full.

Section 4. KRS 294.032 is amended to read as follows:

(1) A license as a mortgage loan company or a mortgage loan broker may be obtained by filing a written application with the commissioner.

(2) The application shall:

(a) Be sworn to;

(b) State the name of the applicant and each of the applicant's affiliates engaged in business as a mortgage loan company or a mortgage loan broker;

(c) State the name under which the applicant will conduct business in Kentucky;

(d) State the location of the applicant's principal office and branch offices in Kentucky;

(e) List the name, residence, and business address of each person having an interest in the business as principal, partner, officer, trustee, and director, specifying the capacity and title of each;

(f) Indicate the general plan and character of the business;

(g) Contain a corporate surety bond or other instrument as prescribed by KRS 294.060;

(h) If applying for a mortgage loan broker license, contain a compiled financial statement of the applicant; or, if applying for a mortgage loan company license, contain a reviewed or audited financial statement of the applicant prepared by a licensed or certified public accountant;

(i) Require payment of the appropriate registration fees; and

(j) Require such other information as the commissioner determines necessary.

(3) No mortgage loan company license may be granted unless the applicant has and maintains, so long as the license is in effect, a minimum, documented funding source of five hundred thousand dollars ($500,000). If a mortgage loan company has a net worth in excess of five hundred thousand dollars ($500,000), an additional funding source is not required.

(4) ***A***~~[If a licensee is a person other than a natural person, the]~~ license issued to ***a mortgage loan company or a mortgage loan broker***~~[it]~~ shall entitle all officers and employees of the person, if a corporation, and all members, partners, trustees, and employees, if an association, partnership, ***natural person,*** or trust, to engage in the mortgage loan business licensed pursuant to this chapter***, subject to the applicable registration requirements of Sections 6 and 7 of this Act***.

(5) If a licensee desires to establish a branch office in Kentucky not already approved, the licensee shall file a registration statement with the commissioner that includes the address and telephone number of the branch office, the name of the prospective manager, the anticipated opening date, and any other information prescribed by the commissioner.

(6) All applicants for a mortgage loan broker license shall have successfully completed an educational training course, approved by the department, of not less than thirty (30) ***classroom*** hours' duration. Mortgage loan brokers who have held a license for at least one (1) year shall be exempt from this requirement. This section shall not become effective until the department has approved at least one (1) educational training course. This section shall not apply to renewals of existing licenses.

Section 5. KRS 294.034 is amended to read as follows:

(1) An applicant for a license under this chapter shall provide the commissioner with separate checks payable to the Kentucky State Treasurer for:

(a) An investigation fee of three hundred dollars ($300) for the principal office and one hundred fifty dollars ($150) for each branch office; and

(b) A license fee of four hundred fifty dollars ($450) for the principal office and two hundred fifty dollars ($250) for each branch in Kentucky if the applicant applies for a license on or between July 1 and December 31 or of one hundred fifty dollars ($150) for the principal office and one hundred dollars ($100) for each branch if the applicant applies for a license on or between January 1 and June 30.

(2) A license under this chapter shall expire June 30 next after the date of issuance if it is not renewed.

(3) A license may be renewed by paying the annual fee for renewing a license which is three hundred fifty dollars ($350) for the main office and two hundred fifty dollars ($250) for each branch office in Kentucky, and submitting an annual report of activity as prescribed by the commissioner, and any other information required by the commissioner.

(4) The information and payment shall be received by the commissioner on or before June 20 prior to the June 30 expiration date. The commissioner may reinstate the license if the licensee pays the filing fee and a reinstatement fee of *two hundred fifty dollars ($250)*[~~one hundred dollars ($100)~~].

(5) The department shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar ($10) replacement fee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 2004, and annually thereafter, no mortgage loan broker and no loan officer shall originate mortgage loans in Kentucky unless such mortgage loan broker or loan officer is registered with the department and has been issued a certificate of registration by the department. The department shall maintain a registry of all mortgage loan brokers and loan officers originating mortgage loans in Kentucky. The department shall issue a certificate of registration to all registered mortgage loan brokers and loan officers.

(2) The registration shall:

(a) Be on a form prescribed by the commissioner;

(b) Be accompanied by a registration fee in the amount of fifty dollars ($50) which shall be used solely by the department to establish and maintain the registry system required by this section and any excess funds shall be retained by the department and shall not lapse to the general fund;

(c) In the case of initial registrations of loan officers, be accompanied by satisfactory evidence that the applicant has successfully completed twelve (12) classroom hours of education courses related directly to the mortgage loan process or brokerage business, as approved by the commissioner. This paragraph shall not apply to renewals of existing certificates of registration; and

(d) Beginning July 1, 2005, in the case of renewals of certificate of registrations by registered mortgage loan brokers and registered loan officers, be accompanied by satisfactory evidence that the individual has successfully met the continuing education requirements of Section 7 of this Act and by a renewal fee in the amount of fifty dollars ($50). The renewal fee shall be used solely by the department to establish and maintain the registry system required by this section and any excess funds shall be retained by the department and shall not lapse to the general fund.

(3) All mortgage loan brokers and loan officers subject to the registration requirements of this section shall also be subject to KRS 294.090(1), (3), (6), (7), (8), (10), (11), and (12), 294.220(1) and (2), and 294.990.

SECTION 7. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 2004, all registered mortgage loan brokers and registered loan officers shall complete at least twelve (12) hours of continuing professional education, a minimum of six (6) of which must be classroom hours, by June 30, 2005, and annually thereafter.

(2) Up to twelve (12) hours of continuing professional education may be carried forward from one (1) continuing education year to the next continuing education year. The continuing education year shall begin on July 1 and end on June 30 of the following year.

(3) Fifty (50) minutes of classroom contact shall equal one (1) hour of continuing professional education. Each continuing professional education course, other than classroom hours, shall equal the number of hours approved and designated by the Department of Financial Institutions for that course. Course sponsors shall maintain records of attendees for two (2) years after completion of the course.

(4) Every registered mortgage loan broker and every registered loan officer subject to this section shall furnish to the commissioner written certification as to each continuing professional education course satisfactorily completed. The certification shall be signed by the teacher or sponsoring organization of the course showing the number of hours of the course and the number of hours attended. The certification shall be on a form prescribed by the commissioner.

(5) Only courses approved by the department shall qualify to satisfy the continuing professional education requirement of this section.

(6) An individual teaching any approved continuing professional education course shall qualify for the same number of hours of continuing professional education as would be granted to a mortgage loan broker or loan officer taking and satisfactorily completing the course.

(7) For good cause shown, the commissioner may grant an extension during which the continuing education requirement of this section may be completed, but the extension may not exceed one (1) year. What constitutes good cause for the extension of time rests within the discretion of the commissioner.

(8) The certificate of registration of any mortgage loan broker and any loan officer failing to comply with the continuing professional education requirements of this section and who has not been granted an extension of time to comply in accordance with subsection (7) of this section shall terminate and shall be promptly surrendered to the commissioner without demand. The mortgage loan broker or loan officer shall not originate any mortgage loans while not registered. The commissioner may reinstate the certificate of registration if the mortgage loan broker or loan officer submits proof of compliance with the professional education requirements and pays a reinstatement fee in the amount of two hundred and fifty dollars ($250).

SECTION 8. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may, after notice and an opportunity to be heard, deny, suspend, or revoke the registration or license of a mortgage loan company, mortgage loan broker, or a loan officer, if the commissioner finds that the mortgage loan company, mortgage loan broker, or loan officer:

(a) Does not meet or has failed to comply with the provisions of Section 6 or 7 of this Act;

(b) Has been found guilty of fraud in connection with any transaction governed by this chapter, or is the subject of an administrative cease and desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the registrant. The commissioner may not institute a proceeding under this subsection more than one (1) year from the date of the order or injunction relied on, and he may not enter an order under this subsection on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute grounds for an order under this section;

(c) Has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the course of acting as a mortgage loan broker or loan officer, or has engaged in a course of business which has worked or tended to work a fraud upon any person or would so operate;

(d) Has been convicted of or pled guilty to any felony crime;

(e) Has failed to comply with the requirements of this chapter and the administrative regulations of the commissioner promulgated thereunder;

(f) Has knowingly or recklessly hired a person who has had a license or registration denied, revoked, or suspended under this section; or

(g) Has knowingly made or caused to be made to the commissioner any false representation of material fact or has suppressed or withheld from the commissioner any information which the mortgage loan broker or loan officer possesses, and which if submitted by the mortgage loan broker or the loan officer would have rendered the mortgage loan broker or loan officer ineligible to be registered or licensed under this chapter.

(2) Persons whose registration or license has been denied, suspended, or revoked under this section are prohibited from participating in any business activity of a registrant or licensee under this chapter and from engaging in any business activity on the premises where a licensee or registrant under this chapter is conducting its business.

(3) Whenever the commissioner revokes or suspends a license or registration issued pursuant to this chapter, the commissioner shall execute a written order to that effect. The commissioner shall serve the written order upon the licensee or registrant, which order shall be sent by registered mail, return receipt requested, postage prepaid, to the principal business address of such licensee or registrant, as set forth in the records of the commissioner, and shall be deemed to have been received three (3) business days following mailing thereof.

(4) Any person who continues to participate in any business activity covered by this chapter after such person's registration or license has been revoked, suspended, or denied shall be subject to the penalties of KRS 294.990 and shall be considered to be in violation of KRS 367.170.

(5) The provisions of this section shall be in addition to any other penalties or remedies available, including the penalties of KRS 294.990.

SECTION 9. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

A mortgage loan broker may act as agent for the person or persons, if an individual or individuals, attempting to obtain a mortgage loan. The mortgage loan broker shall clearly and conspicuously disclose to the person or persons attempting to obtain a mortgage loan whether the mortgage loan broker is acting as an agent for that person or persons, in a separate writing, and provide such disclosure to the person or persons attempting to obtain the mortgage loan before any personal financial information may be obtained by the mortgage loan broker. If a mortgage loan broker is obtaining personal information from the person or persons obtaining the mortgage loan over the telephone, the mortgage loan broker shall give the disclosure verbally at that time and mail the written disclosure within two (2) business days.

Section 10. KRS 287.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Bank or state bank" means any bank which is now or may hereafter be organized under the laws of this state or a combined bank and trust company;

(2) "National bank" or "national bank association" means a bank created by Congress and organized pursuant to the provisions

of federal law, including savings and loan associations;

(3) "Out-of-state bank" means a bank chartered under the laws of any state other than Kentucky;

(4) "Home state" means:

(a) With respect to a state bank or out-of-state state bank, the state by which the bank is chartered; and

(b) With respect to a national bank, the state in which the main office of the bank is located;

(5) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which such bank is chartered;

(6) "Host state" means a state, other than the home state, in which the bank maintains, or seeks to establish and maintain, a branch;

(7) "Commissioner" means the commissioner of financial institutions;

(8) "Department" means the Department of Financial Institutions;

(9) "Population" means the population as indicated by the latest regular United States census;

(10) "Trust company" includes every corporation authorized by this chapter to do a trust business;

(11) "Undivided profits" means the composite of the bank's net retained earnings from current and prior years' operations;

(12) "Capital stock" shall mean, at any particular time, the sum of:

(a) The par value of all shares of the corporation having a par value that have been issued;

(b) The amount of the consideration received by the corporation for all shares of the corporation that have been issued without par value except such part of the consideration as has been allocated to surplus in a manner permitted by law; and

(c) Such amounts not included in paragraphs (a) and (b) of this subsection as have been transferred to stated capital of the corporation, whether through the issuance of stock dividends, resolution of the bank's board of directors under applicable corporate law or otherwise by law;~~[and]~~

(13) "Surplus" means the amount of consideration received by the corporation for all shares issued without par value that has not been allocated to capital stock or the amount of consideration received by the corporation in excess of par value for all shares with a par value or both*;*

(14) "Municipality" means a county, city, or urban-county government; and

(15) "Political subdivision" means a municipality, school district, or other municipal authority.

SECTION 11. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) All political subdivisions of the Commonwealth shall be prohibited from enacting and from enforcing ordinances, resolutions, and regulations pertaining to the financial or lending activities of persons or entities which:

(a) Are subject to the jurisdiction of the department or the provisions of this chapter;

(b) Are subject to the jurisdiction or regulatory supervision of the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Deposit Insurance Corporation, or the United States Department of Housing and Urban Development; or

(c) Originate, purchase, sell, assign, securitize, assist, facilitate, or service property interests or obligations created by financial transactions or loans made, executed, or originated by persons or entities referred to in paragraph (a) or (b) of this subsection.

(2) The requirements of this section shall apply to all ordinances, resolutions, or regulations pertaining to lending activities, including any ordinances, resolutions, or regulations which limit or disqualify persons or entities from doing business with a political subdivision based upon financial or lending activities or the imposition of additional reporting requirements or other obligations on such persons or entities seeking to do business with a political subdivision.

(3) Any provision of this chapter preempted by federal law with respect to a national bank or federal savings association shall not apply to the same extent to an operating subsidiary of a national bank or federal savings association.

(4) The provisions of this chapter shall be interpreted and applied to the fullest extent practicable in a manner consistent with applicable federal laws and regulations and with applicable policies and orders of federal regulatory agencies and shall not be deemed to constitute an attempt to override federal law.

SECTION 12. A NEW SECTION OF KRS CHAPTER 360 IS CREATED TO READ AS FOLLOWS:

(1) The following definitions apply for the purposes of this section:

(a) "High-cost home loan" means a loan other than an open-end credit plan or a reverse mortgage transaction in which:

1. The principal amount of the loan is greater than fifteen thousand dollars ($15,000) and does not exceed two hundred thousand dollars ($200,000);

2. The borrower is a natural person;

3. The debt is incurred by the borrower primarily for personal, family, or household purposes;

4. The loan is secured by a mortgage on residential real property or secured by collateral which has a mortgage lien interest in residential real property, which is or will be occupied by the borrower as the borrower's principal dwelling; and

5. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" as defined in 12 CFR 226.2(a)(24), as amended from time to time, the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994, Pub. Law 103-325, 15 U.S.C. § 1602(aa), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including 12 CFR 226.32, as the same may be amended from time to time.

(b) "Lender" means any person who funds or negotiates the terms of a high-cost home loan or acts as a mortgage broker or lender, finance company, or retail installment seller with respect to a high-cost home loan. However, any person who purchases or is otherwise assigned a high-cost home loan shall be subject to an action for violation of this section only if the violation for which the action or proceeding is brought is apparent on the face of the disclosure or the underlying promissory note.

(2) A high-cost home loan shall be subject to the following limitations:

(a) A high-cost home loan may not contain a provision which permits the lender to charge or collect prepayment fees or penalties more than thirty-six (36) months after the loan closing or which exceed three percent (3%) of the amount prepaid during the first twelve (12) months, two percent (2%) of the amount prepaid during the second twelve (12) months, or one percent (1%) of the amount prepaid during the third twelve (12) months.

(b) A high-cost home loan may not contain a provision which permits the lender, in its sole discretion, to accelerate the indebtedness. This provision does not apply when repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or pursuant to some other provision of the loan documents unrelated to the payment schedule.

(c) A high-cost home loan may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

(d) A high-cost home loan may not contain a payment schedule with regular periodic payments that cause the principal balance to increase.

(e) A high-cost home loan may not contain a provision which increases the interest rate after default. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

(f) A high-cost home loan may not include terms under which more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(g) A lender may not charge a borrower any fees to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan, unless the fees are less than one-half (1/2) of any fees that would be charged for a refinance or unless the borrower is in default and it is in the borrower's best interest.

(h) A lender may not make a high-cost home loan unless the borrower has been provided the following notice or a substantially similar notice, in writing, not later than the time that notice provided by 12 CFR 226.31(c), as amended from time to time, is required:

NOTICE TO BORROWER

IF YOU OBTAIN THIS LOAN, THE LENDER WILL HAVE A MORTGAGE ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH LENDER OR BROKER YOU SELECT. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES.

YOU SHOULD ALSO CONSIDER CONSULTING A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. YOU SHOULD CONTACT THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A LIST OF CREDIT COUNSELORS AVAILABLE IN YOUR AREA.

YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE

RECEIVED THESE DISCLOSURES OR HAVE SIGNED A LOAN APPLICATION.

REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL LENDERS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR LENDER ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.

(i) A lender shall not make a high-cost home loan unless the lender has made available to the borrower a videotape or other similar audio-video media format such as DVD or CD, approved by the Department of Financial Institutions, which explains the borrower's rights and responsibilities with regard to this section or high-cost home loans. A lender shall have available for viewing at least one (1) copy of the video in the principal office and each branch office of the lender.

(j) A lender may not make a high-cost home loan unless the lender reasonably believes at the time the loan is consummated that one (1) or more of the borrowers, when considered individually or collectively, will be able to make the scheduled payments to repay the loan based upon a consideration of their current and expected income, current obligations, current employment status, and other financial resources, other than the borrower's equity in the dwelling which secures repayment of the loan. A borrower shall be presumed to be able to make the scheduled payments to repay the loan if, at the time the loan is consummated, the borrower's total monthly debts, including amounts owed under the loan, do not exceed fifty percent (50%) of the borrower's monthly gross income as verified by the credit application, the borrower's financial statement, a credit report, financial information provided to the lender by or on behalf of the borrower, or any other reasonable means. No presumption of inability to make the scheduled payments to repay the obligation shall arise solely from the fact that, at the time the loan is consummated, the borrower's total monthly debts, including amounts owed under the loan, exceed fifty percent (50%) of the borrower's monthly gross income.

(k) If the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same lender as noteholder, the lender may not directly or indirectly finance:

1. Any prepayment fees or penalties payable by the borrower; or

2. Points and fees, excluding those provided for in 12 CFR 226.4(c)(7), which in the aggregate are in excess of four percent (4%) of the total amount financed.

(l) A lender or mortgage loan broker may not, within one (1) year of the consummation of a high-cost home loan, charge a borrower points and fees in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan on which points were charged. A lender may not, at any time, charge a borrower points and fees in addition to those allowed by 12 CFR 226.4(c)(7) if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan, on which points were charged, held by the same lender as noteholder. However, points and fees in accordance with this section may be charged on any proceeds of a high-cost home loan which are in excess of the amount refinanced on the existing high-cost home loan.

(m) A lender may not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan other than by an instrument payable to the borrower or jointly to the borrower and the contractor, or at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the lender, and the contractor prior to the disbursement.

(n) A lender shall not refinance, replace, or consolidate a zero interest rate or low interest rate loan made by a governmental or nonprofit lender with a high-cost home loan. For purposes of this paragraph, a low interest rate loan is defined as a loan that carries a current interest rate that is two (2) percentage points or more below the current yield on United States Treasury securities with a comparable maturity.

(o) A lender shall not finance single premium credit life, credit accident, credit health, credit disability, or credit loss of income insurance in connection with a high-cost home loan.

(p) A lender shall not make a high-cost home loan subject to a mandatory arbitration clause that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of consumers. Arbitration clauses that comply with the standards set forth in the Statement of Principles of the National Consumer Dispute Advisory Committee of the American Arbitration Association in effect on the effective date of this Act shall be presumed not to violate this paragraph.

(q) A lender shall not charge a late payment fee on a high-cost home loan except in accordance with the following:

1. The late payment fee may not be in excess of five percent (5%) of the amount of the payment past due or ten dollars ($10), whichever is greater;

2. The late payment fee may only be assessed for a payment past due fifteen (15) days or more; and

3. The late payment fee may only be charged once with respect to a single late payment.

(r) A lender may not charge a borrower a fee in excess of ten dollars ($10) or actual costs, whichever is greater, per

request for a written payoff calculation on a high-cost home loan for the first two (2) requests by a borrower in a calendar year.

(s) A lender shall not initiate a foreclosure or other judicial process to terminate a borrower's interest in residential real property subject to a high-cost home loan without first providing the borrower, at least thirty (30) days prior to the initiation of any process, written notice of default and of the borrower's right to cure. The notice shall include a statement of the amount needed to be paid by the borrower in order to cure the default and the date by which payment is due to cure the default. If the amount needed to be paid will change during the thirty (30) day notice period, the notice shall provide information sufficient to enable a calculation of the daily change.

(t) A lender shall not recommend or encourage default on an existing loan or other debt in connection with the closing of a high-cost home loan that refinances all or a portion of the existing loan or debt.

(3) Except as provided in paragraph (e) of subsection (2) of this section, the making of a high-cost home loan which violates any provisions of subsection (2) of this section is usurious, subject to the penalties of this chapter, and unlawful as an unfair and deceptive act or practice in or affecting commerce in violation of the provisions of KRS 367.170. The provisions of this section shall apply to any person who in bad faith attempts to avoid the application of this section by:

(a) The structuring of a loan transaction as an open-end credit plan for the purpose and with the intent of evading the provisions of this section when the loan would have been a high-cost home loan if the loan had been structured as a closed-end loan; or

(b) Dividing any loan transaction into separate parts for the purpose and with the intent of evading the provisions of this section; or

(c) Any other such subterfuge.

The Attorney General, the commissioner of the Department of Financial Institutions, or any party to a high-cost home loan may enforce the provisions of this section. Any person seeking damages or penalties under the provisions of this section may recover damages under either this chapter or KRS Chapter 367, but not both.

(4) A lender of a high-cost home loan who, when acting in good faith, fails to comply with subsection (2) of this section, will not be deemed to have violated this section if the lender establishes that either:

(a) Within thirty (30) days of the loan closing the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made, at the choice of the borrower, to the loan to either:

1. Make the high-cost home loan satisfy the requirements of subsection (2) of this section; or

2. Change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section; or

(b) The compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, and within sixty (60) days after the discovery of the compliance failure, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, make the high-cost home loan satisfy the requirements of subsection (2) of this section or change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors.

(c) For purposes of this subsection, "appropriate restitution" means the reimbursement by the lender of any points, fees, interest, or other charges made by the lender and received from the borrower necessary to put the borrower in the same position as he or she would have been had the loan, as adjusted in accordance with paragraphs (a) and (b) of this subsection, been originally made.

(5) For purposes of this section, any extension of credit shall be deemed to have been made in the Commonwealth of Kentucky, and therefore subject to the provisions of this section, if the lender offers or agrees in Kentucky to lend to a borrower, who is a resident of Kentucky, on real property located within the Commonwealth of Kentucky, or if such borrower accepts or makes the offer in Kentucky to borrow, regardless of the situs of the contract as specified therein. Any oral or written solicitation or communication to lend originating outside of Kentucky, but forwarded to and received in Kentucky by a borrower who is a resident of Kentucky, shall be deemed to be an offer or agreement to lend in Kentucky and, therefore, subject to this section. Any oral or written solicitation or communication to borrow originating within Kentucky, from a borrower who is a resident of Kentucky, but forwarded to and received by a lender outside of Kentucky, shall be deemed to be an acceptance or offer to borrow in Kentucky. Any oral or written offer, acceptance, solicitation, or communication to lend or borrow, made in Kentucky to, or received in Kentucky from, a borrower who is not a resident of Kentucky, shall be subject to the provisions of this section, applicable federal law, law of the situs of the contract, or law of the residence of the borrower, as the parties may elect. The provisions of this section shall be severable and if any phrase, clause, sentence, or provision is declared to be invalid, the validity of the remainder of this section shall not be affected thereby.

Section 13. KRS 367.410 is amended to read as follows:

As used in KRS 367.410 to 367.450, unless the context otherwise requires:

"Home solicitation sale" means a sale of goods or services***, including consumer loans,*** in which the seller or a person acting for him engages in a personal solicitation of the sale at a residence of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him. It does not include a sale made pursuant to prior negotiations between the parties***, by telephone initiated by the buyer or*** at a business establishment at a fixed location where goods or services***, including loans,*** are offered or exhibited for sale.

Section 14. KRS 367.420 is amended to read as follows:

(1) Except ***for home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer as provided in subsection (6) of this section, and except*** as provided in subsection (5) ***for other goods and services, including all other consumer loans***, in addition to any right otherwise to revoke an offer, the buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with this part.

(2) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement or offer to purchase.

(3) Notice of cancellation, if given by mail, is given when it is deposited in a mailbox properly addressed and postage prepaid.

(4) Notice of cancellation given by the buyer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.

(5) The buyer may not cancel a home solicitation sale if the buyer requests the seller to provide goods or services without delay because of an emergency, and

  (a) The seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation, and

  (b) In the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer.

(6) For home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer, the buyer shall have the right to rescind or cancel the transaction until midnight of the third business day following the later of the consummation of the loan transaction or the delivery of the material disclosures required under the Truth in Lending Act, 15 U.S.C. 1601 et seq.

The Committee Substitute to **HB 287** is as follows:

HB 287, AN ACT relating to mortgage loans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 294.010 is amended to read as follows:

Unless the context otherwise requires:

(1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with another person;

(2) "Department" means the Department of Financial Institutions;

(3) "Commissioner" means the commissioner of financial institutions;

(4) "Mortgage loan" means any loan secured by a mortgage on residential real property or any loan secured by collateral which has a mortgage lien interest in residential real property;

(5) "Residential real property" means any single family residence or multiple dwelling structure containing four (4) or less single dwelling units for four (4) or less family units, living independently of each other, or any single family condominium unit;

(6) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries is evidenced by a security, an unincorporated organization, a government, a political subdivision of a government, or any other group however organized;

(7) "Mortgage loan company" means any person who directly or indirectly:

  (a) Holds himself out as being able to make or purchase loans secured by mortgages on residential real property;

  (b) Holds himself out as being able to service loans secured by mortgages on residential real property; and

  (c) Holds himself out as being able to buy or sell notes secured by mortgages on residential real property;

(8) "Mortgage loan broker" means any person who for compensation or gain, or in the expectation of compensation or gain, directly or indirectly:

  (a) Holds himself out as being able to serve as an agent for any person in an attempt to obtain a loan which will be secured by a mortgage on residential real property; or

(b) Holds himself out as being able to serve as an agent for any person who has money to loan, which loan is or will be secured by a mortgage on residential real property.

"Mortgage loan broker" does not mean a person who performs functions of a loan processor, nor does it mean a person who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company;

(9) "Loan officer" or "originator" means an individual who discusses or negotiates the rates, terms, and conditions of a loan with a borrower or prospective borrower. The term does not mean a person who performs functions of a loan processor, nor does it mean an individual who performs only clerical functions such as delivering a loan application to a mortgage loan broker or mortgage loan company or gathering information related to a mortgage loan application on behalf of the prospective borrower, mortgage loan broker, or mortgage loan company;

(10) "Loan processor" means an individual who works under the instruction of a loan officer or mortgage loan broker and performs only clerical functions such as gathering information, requesting information, word processing, sending correspondence, or assembling files; and

(11) "Classroom" means a physical classroom environment in which teachers and participants are physically present for the teaching of a course. Courses taught through the Internet, mail, or correspondence classes shall not be considered to be courses taught in a classroom.

Section 2. KRS 294.020 is amended to read as follows:

(1) The following shall be exempt from this chapter:

(a) Any person duly licensed, chartered, or otherwise subject to regular examination at least once every two (2) years by a state or federal financial institution regulatory agency under the laws of this state or any other state or the United States as a bank, bank holding company, trust company, credit union, savings and loan association, service corporation subsidiary of savings and loan associations, consumer loan or finance company, industrial loan company, insurance company, real estate investment trust as defined in 26 U.S.C. sec. 856, an institution of the farm credit system organized under the Farm Credit Act of 1971 as amended, or ***any*** wholly owned subsidiary ***or affiliate, or any mortgage loan broker, loan officer, originator, or loan processor employed by any such person, or by a subsidiary or affiliate*** of any institution listed in this paragraph if the institution maintains a place of business in Kentucky;

(b) An attorney-at-law licensed to practice law in Kentucky who is not principally engaged in the business of negotiating mortgage loans, when the person renders services in the course of his practice as an attorney-at-law;

(c) Any person doing any act under order of any court;

(d) The United States of America, the Commonwealth of Kentucky, or any other state, and any Kentucky city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the foregoing;

(e) The Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA); ***and***

(f)[~~With the approval of the commissioner, an independent contractor that solicits mortgage loans for only one (1) licensed mortgage loan company or licensed mortgage loan broker may be exempted from obtaining a license under this chapter if:~~

~~1. The licensed mortgage loan company or licensed mortgage loan broker notifies the department that it will assume legal responsibility for the actions of the independent contractor in complying with the provisions of KRS Chapter 294; and~~

~~2. The licensed mortgage loan company or licensed mortgage loan broker provides the department with proof that its bond will cover the independent contractor; and~~

~~(g)~~] Any mortgage loan involving housing initially transferred by certificate of title under KRS Chapter 186A.

(2) The following shall be exempt from all the provisions of this chapter except that they shall be subject to the examination or investigation provisions of KRS 294.170(4), (5), and (6), 294.180, and 294.190 if it appears on grounds satisfactory to the commissioner, on written complaint, that an examination or investigation is necessary***;***[~~,~~] and they shall be subject to the prohibited acts provisions of KRS 294.220***; and any mortgage loan broker, loan officer, or originator who is an employee of a mortgage loan company or mortgage loan broker regulated by the Department of Housing and Urban Development shall be subject to Sections 6 and 7 of this Act***:

(a) Mortgage loan companies or mortgage loan brokers regulated by the Department of Housing and Urban Development;

(b) Any natural person making a mortgage loan with his or her own funds for the person's own investment without intent to resell the mortgage loan;

(c) Any person doing business under the laws of this state or the United States relating to any broker-dealer, agent, or investment adviser duly registered with the Department of Financial Institutions;

(d) Any person licensed in this state as a real estate broker or real estate sales associate, not actively engaged in the business of negotiating loans secured by real property, when the person renders the services in the course of his or her practice as a real estate broker or real estate associate; and

(e) Any person making less than five (5) mortgage loans per year***, who shall notify the Department of Financial Institutions of each loan made, in such written form and manner as required by the department***.

(3) Any person relying upon an exemption under subsection (2)***(a),*** (c)***,*** or (d) of this section shall file with the commissioner a claim of exemption. The commissioner shall thereafter determine the availability of the claimed exemption and he shall not disallow an exemption that is validly claimed.

(4) Any person listed in subsection (1)(a), (b), (c), (d), or (e) of this section shall not be required to file with the commissioner a claim of exemption.

(5) (a) Any natural person making a loan under subsection (2)(b) of this section shall make the following disclosure, on a separate sheet of paper in minimum eighteen (18) point type, to the borrower:

DISCLOSURE

(Name and address of lender) is not licensed or regulated by the Kentucky Department of Financial Institutions.

(Name of lender) is making this mortgage loan with his or her own funds, for the person's own investment, without intent to resell the mortgage loan.

(The phone number and address of the Kentucky Department of Financial Institutions.)

(b) A copy of the disclosure, signed by the borrower, shall be maintained by the natural person for a period not to exceed three (3) years after the date the mortgage loan is paid in full.

(c) This subsection shall not apply to a natural person under subsection (2)(b) of this section making less than five (5) mortgage loans per year.

Section 3. KRS 294.030 is amended to read as follows:

(1) (a) It is unlawful for any person to transact business in this state, either directly or indirectly, as a mortgage loan company or mortgage loan broker if he is not licensed under this chapter ***and registered in accordance with Section 6 of this Act***, unless that person is exempt under KRS 294.020 and, if required by KRS 294.020(3) to file a claim of exemption, has filed a claim of exemption and the filed claim of exemption has been allowed by the commissioner.

(b) It is unlawful for any natural person to make a loan under KRS 294.020(2)(b) without making the disclosure required by KRS 294.020(5).

(c) It is unlawful for any loan officer, unless otherwise exempted, to originate mortgage loans in Kentucky if the loan officer is not registered in accordance with Section 6 of this Act.

(2) Neither the fact that a license has been issued nor the fact that any person, business, or company is effectively registered, constitutes a finding by the commissioner that any document filed under this chapter is true, complete, and not misleading. Nor does such fact directly or indirectly imply approval of the registrant by the commissioner or the Commonwealth of Kentucky. It is unlawful to make or cause to be made to any prospective customer or client any representation inconsistent with this subsection.

(3) Any person who willfully transacts business in this state in violation of subsection (1) of this section shall have no right to collect, receive, or retain any interest or charges whatsoever on a loan contract, but the unpaid principal of the loan shall be paid in full.

Section 4. KRS 294.032 is amended to read as follows:

(1) A license as a mortgage loan company or a mortgage loan broker may be obtained by filing a written application with the commissioner.

(2) The application shall:

(a) Be sworn to;

(b) State the name of the applicant and each of the applicant's affiliates engaged in business as a mortgage loan company or a mortgage loan broker;

(c) State the name under which the applicant will conduct business in Kentucky;

(d) State the location of the applicant's principal office and branch offices in Kentucky;

(e) List the name, residence, and business address of each person having an interest in the business as principal, partner, officer, trustee, and director, specifying the capacity and title of each;

(f) Indicate the general plan and character of the business;

(g) Contain a corporate surety bond or other instrument as prescribed by KRS 294.060;

(h) If applying for a mortgage loan broker license, contain a compiled financial statement of the applicant; or, if applying for a mortgage loan company license, contain a reviewed or audited financial statement of the applicant prepared by a licensed or certified public accountant;

(i) Require payment of the appropriate registration fees; and

(j) Require such other information as the commissioner determines necessary.

(3) No mortgage loan company license may be granted unless the applicant has and maintains, so long as the license is in effect, a minimum, documented funding source of five hundred thousand dollars ($500,000). If a mortgage loan company has a net worth in excess of five hundred thousand dollars ($500,000), an additional funding source is not required.

(4) ***A***[~~If a licensee is a person other than a natural person, the~~] license issued to ***a mortgage loan company or a mortgage loan broker***[~~it~~] shall entitle all officers and employees of the person, if a corporation, and all members, partners, trustees, and employees, if an association, partnership, ***natural person,*** or trust, to engage in the mortgage loan business licensed pursuant to this chapter***, subject to the applicable registration requirements of Sections 6 and 7 of this Act***.

(5) If a licensee desires to establish a branch office in Kentucky not already approved, the licensee shall file a registration statement with the commissioner that includes the address and telephone number of the branch office, the name of the prospective manager, the anticipated opening date, and any other information prescribed by the commissioner.

(6) All applicants for a mortgage loan broker license shall have successfully completed an educational training course, approved by the department, of not less than thirty (30) ***classroom*** hours' duration. Mortgage loan brokers who have held a license for at least one (1) year shall be exempt from this requirement. This section shall not become effective until the department has approved at least one (1) educational training course. This section shall not apply to renewals of existing licenses.

(7) (a) On and after the effective date of this Act, the application for a mortgage loan broker license shall state the address of the physical location where the business is to be located in compliance with Section 15 of this Act and whether such location is a residence. Photographs of the exterior, interior, and exterior sign of each location shall accompany the application. If the physical location is not a residence and is leased, the lease shall be for a term of at least one (1) year and a copy of the lease and the names of all employees conducting business under the lease shall accompany the application. If the physical location is a residence, proof that the location is a residence, in a form as required by the commissioner, shall accompany the application. Proof of residence shall confirm that the mortgage loan broker owns or leases the residence and lives in the residence as the mortgage loan broker's main residence. Proof of physical location shall include proof that local zoning requirements are satisfied.

(b) The information required by paragraph (a) of this subsection shall be required for renewals of existing licenses which will expire on June 30, 2004, and for all renewals of licenses thereafter.

(c) At least ten (10) days prior to the effective date of an address change of the mortgage loan broker's physical location, the mortgage loan broker shall notify the commissioner in writing of the address change and shall include the information required by paragraph (a) of this subsection.

Section 5. KRS 294.034 is amended to read as follows:

(1) An applicant for a license under this chapter shall provide the commissioner with separate checks payable to the Kentucky State Treasurer for:

(a) An investigation fee of three hundred dollars ($300) for the principal office and one hundred fifty dollars ($150) for each branch office; and

(b) A license fee of four hundred fifty dollars ($450) for the principal office and two hundred fifty dollars ($250) for each branch in Kentucky if the applicant applies for a license on or between July 1 and December 31 or of one hundred fifty dollars ($150) for the principal office and one hundred dollars ($100) for each branch if the applicant applies for a license on or between January 1 and June 30.

(2) A license under this chapter shall expire June 30 next after the date of issuance if it is not renewed.

(3) A license may be renewed by paying the annual fee for renewing a license which is three hundred fifty dollars ($350) for the main office and two hundred fifty dollars ($250) for each branch office in Kentucky, and submitting an annual report of activity as prescribed by the commissioner, and any other information required by the commissioner. ***The commissioner shall not approve the renewal of a mortgage loan broker's license if the commissioner has not received the information on physical location as required in subsection (7) of Section 4 of this Act.***

(4) The information and payment shall be received by the commissioner on or before June 20 prior to the June 30 expiration date. The commissioner may reinstate the license if the licensee pays the filing fee and a reinstatement fee of ***two hundred fifty dollars ($250)***[~~one hundred dollars ($100)~~].

(5) The department shall provide a licensee with a duplicate copy of any license upon a satisfactory showing of its loss and payment of a ten dollar ($10) replacement fee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 2004, and annually thereafter, no mortgage loan broker and no loan officer shall originate mortgage loans in Kentucky unless such mortgage loan broker or loan officer is registered with the department and has been issued a certificate of registration by the department. The department shall maintain a registry of all

mortgage loan brokers and loan officers originating mortgage loans in Kentucky. The department shall issue a certificate of registration to all registered mortgage loan brokers and loan officers.

(2) The registration shall:

- *(a) Be on a form prescribed by the commissioner;*
- *(b) Be accompanied by a registration fee in the amount of fifty dollars ($50) which shall be used solely by the department to establish and maintain the registry system required by this section and any excess funds shall be retained by the department and shall not lapse to the general fund;*
- *(c) In the case of initial registrations of loan officers, be accompanied by satisfactory evidence that the applicant has successfully completed twelve (12) classroom hours of education courses related directly to the mortgage loan process or brokerage business, as approved by the commissioner. This paragraph shall not apply to renewals of existing certificates of registration; and*
- *(d) Beginning July 1, 2005, in the case of renewals of certificate of registrations by registered mortgage loan brokers and registered loan officers, be accompanied by satisfactory evidence that the individual has successfully met the continuing education requirements of Section 7 of this Act and by a renewal fee in the amount of fifty dollars ($50). The renewal fee shall be used solely by the department to establish and maintain the registry system required by this section and any excess funds shall be retained by the department and shall not lapse to the general fund.*

(3) All mortgage loan brokers and loan officers subject to the registration requirements of this section shall also be subject to KRS 294.090(1), (3), (6), (7), (8), (10), (11), and (12), 294.220(1) and (2), and 294.990.

SECTION 7. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 2004, all registered mortgage loan brokers and registered loan officers shall complete at least twelve (12) hours of continuing professional education, a minimum of six (6) of which must be classroom hours, by June 30, 2005, and annually thereafter.

(2) Up to twelve (12) hours of continuing professional education may be carried forward from one (1) continuing education year to the next continuing education year. The continuing education year shall begin on July 1 and end on June 30 of the following year.

(3) Fifty (50) minutes of classroom contact shall equal one (1) hour of continuing professional education. Each continuing professional education course, other than classroom hours, shall equal the number of hours approved and designated by the Department of Financial Institutions for that course. Course sponsors shall maintain records of attendees for two (2) years after completion of the course.

(4) Every registered mortgage loan broker and every registered loan officer subject to this section shall furnish to the commissioner written certification as to each continuing professional education course satisfactorily completed. The certification shall be signed by the teacher or sponsoring organization of the course showing the number of hours of the course and the number of hours attended. The certification shall be on a form prescribed by the commissioner.

(5) Only courses approved by the department shall qualify to satisfy the continuing professional education requirement of this section.

(6) An individual teaching any approved continuing professional education course shall qualify for the same number of hours of continuing professional education as would be granted to a mortgage loan broker or loan officer taking and satisfactorily completing the course.

(7) For good cause shown, the commissioner may grant an extension during which the continuing education requirement of this section may be completed, but the extension may not exceed one (1) year. What constitutes good cause for the extension of time rests within the discretion of the commissioner.

(8) The certificate of registration of any mortgage loan broker and any loan officer failing to comply with the continuing professional education requirements of this section and who has not been granted an extension of time to comply in accordance with subsection (7) of this section shall terminate and shall be promptly surrendered to the commissioner without demand. The mortgage loan broker or loan officer shall not originate any mortgage loans while not registered. The commissioner may reinstate the certificate of registration if the mortgage loan broker or loan officer submits proof of compliance with the professional education requirements and pays a reinstatement fee in the amount of two hundred fifty dollars ($250).

SECTION 8. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may, after notice and an opportunity to be heard, deny, suspend, or revoke the registration or license of a mortgage loan company, mortgage loan broker, or a loan officer, if the commissioner finds that the mortgage loan company, mortgage loan broker, or loan officer:

- *(a) Does not meet or has failed to comply with the provisions of Section 6 or 7 of this Act;*
- *(b) Has been found guilty of fraud in connection with any transaction governed by this chapter, or is the subject of an administrative cease and desist order or similar order, or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the registrant. The*

commissioner may not institute a proceeding under this subsection more than one (1) year from the date of the order or injunction relied on, and he may not enter an order under this subsection on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute grounds for an order under this section;

(c) Has made any misrepresentations or false statements to, or concealed any essential or material fact from, any person in the course of acting as a mortgage loan broker or loan officer, or has engaged in a course of business which has worked or tended to work a fraud upon any person or would so operate;

(d) Has been convicted of or pled guilty to any felony crime;

(e) Has failed to comply with the requirements of this chapter and the administrative regulations of the commissioner promulgated thereunder;

(f) Has knowingly or recklessly hired a person who has had a license or registration denied, revoked, or suspended under this section; or

(g) Has knowingly made or caused to be made to the commissioner any false representation of material fact or has suppressed or withheld from the commissioner any information which the mortgage loan broker or loan officer possesses, and which if submitted by the mortgage loan broker or the loan officer would have rendered the mortgage loan broker or loan officer ineligible to be registered or licensed under this chapter.

(2) Persons whose registration or license has been denied, suspended, or revoked under this section are prohibited from participating in any business activity of a registrant or licensee under this chapter and from engaging in any business activity on the premises where a licensee or registrant under this chapter is conducting its business.

(3) Whenever the commissioner revokes or suspends a license or registration issued pursuant to this chapter, the commissioner shall execute a written order to that effect. The commissioner shall serve the written order upon the licensee or registrant, which order shall be sent by registered mail, return receipt requested, postage prepaid, to the principal business address of such licensee or registrant, as set forth in the records of the commissioner, and shall be deemed to have been received three (3) business days following mailing thereof.

(4) Any person who continues to participate in any business activity covered by this chapter after such person's registration or license has been revoked, suspended, or denied shall be subject to the penalties of KRS 294.990 and shall be considered to be in violation of KRS 367.170.

(5) The provisions of this section shall be in addition to any other penalties or remedies available, including the penalties of KRS 294.990.

SECTION 9. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

A mortgage loan broker may act as agent for the person or persons, if an individual or individuals, attempting to obtain a mortgage loan. The mortgage loan broker shall clearly and conspicuously disclose to the person or persons attempting to obtain a mortgage loan whether the mortgage loan broker is acting as an agent for that person or persons, in a separate writing, and provide such disclosure to the person or persons attempting to obtain the mortgage loan before any personal financial information may be obtained by the mortgage loan broker. If a mortgage loan broker is obtaining personal information from the person or persons obtaining the mortgage loan over the telephone, the mortgage loan broker shall give the disclosure verbally at that time and mail the written disclosure within two (2) business days.

Section 10. KRS 287.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Bank or state bank" means any bank which is now or may hereafter be organized under the laws of this state or a combined bank and trust company;

(2) "National bank" or "national bank association" means a bank created by Congress and organized pursuant to the provisions of federal law, including savings and loan associations;

(3) "Out-of-state bank" means a bank chartered under the laws of any state other than Kentucky;

(4) "Home state" means:

(a) With respect to a state bank or out-of-state state bank, the state by which the bank is chartered; and

(b) With respect to a national bank, the state in which the main office of the bank is located;

(5) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which such bank is chartered;

(6) "Host state" means a state, other than the home state, in which the bank maintains, or seeks to establish and maintain, a branch;

(7) "Commissioner" means the commissioner of financial institutions;

(8) "Department" means the Department of Financial Institutions;

(9) "Population" means the population as indicated by the latest regular United States census;

(10) "Trust company" includes every corporation authorized by this chapter to do a trust business;

(11) "Undivided profits" means the composite of the bank's net retained earnings from current and prior years' operations;

(12) "Capital stock" shall mean, at any particular time, the sum of:

(a) The par value of all shares of the corporation having a par value that have been issued;

(b) The amount of the consideration received by the corporation for all shares of the corporation that have been issued without par value except such part of the consideration as has been allocated to surplus in a manner permitted by law; and

(c) Such amounts not included in paragraphs (a) and (b) of this subsection as have been transferred to stated capital of the corporation, whether through the issuance of stock dividends, resolution of the bank's board of directors under applicable corporate law or otherwise by law;[~~ and~~]

(13) "Surplus" means the amount of consideration received by the corporation for all shares issued without par value that has not been allocated to capital stock or the amount of consideration received by the corporation in excess of par value for all shares with a par value or both***;***

(14) "Municipality" means a county, city, or urban-county government; and

(15) "Political subdivision" means a municipality, school district, or other municipal authority.

SECTION 11. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) All political subdivisions of the Commonwealth shall be prohibited from enacting and from enforcing ordinances, resolutions, and regulations pertaining to the financial or lending activities of persons or entities which:

(a) Are subject to the jurisdiction of the department or the provisions of this chapter;

(b) Are subject to the jurisdiction or regulatory supervision of the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Farm Credit Administration, the Federal Deposit Insurance Corporation, or the United States Department of Housing and Urban Development; or

(c) Originate, purchase, sell, assign, securitize, assist, facilitate, or service property interests or obligations created by financial transactions or loans made, executed, or originated by persons or entities referred to in paragraph (a) or (b) of this subsection.

(2) The requirements of this section shall apply to all ordinances, resolutions, or regulations pertaining to lending activities, including any ordinances, resolutions, or regulations which limit or disqualify persons or entities from doing business with a political subdivision based upon financial or lending activities or the imposition of additional reporting requirements or other obligations on such persons or entities seeking to do business with a political subdivision.

(3) Any provision of this chapter preempted by federal law with respect to a national bank or federal savings association shall not apply to the same extent to an operating subsidiary of a national bank or federal savings association.

(4) The provisions of this chapter shall be interpreted and applied to the fullest extent practicable in a manner consistent with applicable federal laws and regulations and with applicable policies and orders of federal regulatory agencies and shall not be deemed to constitute an attempt to override federal law.

SECTION 12. A NEW SECTION OF KRS CHAPTER 360 IS CREATED TO READ AS FOLLOWS:

(1) The following definitions apply for the purposes of this section:

(a) "High-cost home loan" means a loan other than an open-end credit plan or a reverse mortgage transaction in which:

1. The principal amount of the loan is greater than fifteen thousand dollars ($15,000) and does not exceed two hundred thousand dollars ($200,000);

2. The borrower is a natural person;

3. The debt is incurred by the borrower primarily for personal, family, or household purposes;

4. The loan is secured by a mortgage on residential real property or secured by collateral which has a mortgage lien interest in residential real property, which is or will be occupied by the borrower as the borrower's principal dwelling; and

5. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" as defined in 12 CFR 226.2(a)(24), as amended from time to time, the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994, Pub. Law 103-325, 15 U.S.C. § 1602(aa), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including 12 CFR 226.32, as the same may be amended from time to time.

(b) "Lender" means any person who funds or negotiates the terms of a high-cost home loan or acts as a mortgage broker or lender, finance company, or retail installment seller with respect to a high-cost home loan. However, any person who purchases or is otherwise assigned a high-cost home loan shall be subject to an action for violation of this section only if the violation for which the action or proceeding is brought is apparent on the face of the disclosure or the underlying promissory note.

(2) A high-cost home loan shall be subject to the following limitations:

(a) A high-cost home loan may not contain a provision which permits the lender to charge or collect prepayment fees or penalties more than thirty-six (36) months after the loan closing or which exceed three percent (3%) of the amount prepaid during the first twelve (12) months, two percent (2%) of the amount prepaid during the second twelve (12) months, or one percent (1%) of the amount prepaid during the third twelve (12) months.

(b) A high-cost home loan may not contain a provision which permits the lender, in its sole discretion, to accelerate the indebtedness. This provision does not apply when repayment of the loan has been accelerated by default, pursuant to a due-on-sale provision, or pursuant to some other provision of the loan documents unrelated to the payment schedule.

(c) A high-cost home loan may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This provision does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

(d) A high-cost home loan may not contain a payment schedule with regular periodic payments that cause the principal balance to increase.

(e) A high-cost home loan may not contain a provision which increases the interest rate after default. This provision does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, provided the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

(f) A high-cost home loan may not include terms under which more than two (2) periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the borrower.

(g) A lender may not charge a borrower any fees to modify, renew, extend, or amend a high-cost home loan or to defer any payment due under the terms of a high-cost home loan, unless the fees are less than one-half (1/2) of any fees that would be charged for a refinance or unless the borrower is in default and it is in the borrower's best interest.

(h) A lender may not make a high-cost home loan unless the borrower has been provided the following notice or a substantially similar notice, in writing, not later than the time that notice provided by 12 CFR 226.31(c), as amended from time to time, is required:

NOTICE TO BORROWER

IF YOU OBTAIN THIS LOAN, THE LENDER WILL HAVE A MORTGAGE ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO IT IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES COULD ALSO VARY BASED ON WHICH LENDER OR BROKER YOU SELECT. YOU SHOULD SHOP AROUND AND COMPARE LOAN RATES AND FEES.

YOU SHOULD ALSO CONSIDER CONSULTING A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE, FEES AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. YOU SHOULD CONTACT THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR A LIST OF CREDIT COUNSELORS AVAILABLE IN YOUR AREA.

YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THESE DISCLOSURES OR HAVE SIGNED A LOAN APPLICATION.

REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL LENDERS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR LENDER ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.

(i) A lender may not make a high-cost home loan unless the lender reasonably believes at the time the loan is consummated that one (1) or more of the borrowers, when considered individually or collectively, will be able to make the scheduled payments to repay the loan based upon a consideration of their current and expected income, current obligations, current employment status, and other financial resources, other than the borrower's equity in the dwelling which secures repayment of the loan. A borrower shall be presumed to be able to make the scheduled payments to repay the loan if, at the time the loan is consummated, the borrower's total monthly debts, including amounts owed under the loan, do not exceed fifty percent (50%) of the borrower's monthly gross income as verified by the credit application, the borrower's financial statement, a credit report,

financial information provided to the lender by or on behalf of the borrower, or any other reasonable means. No presumption of inability to make the scheduled payments to repay the obligation shall arise solely from the fact that, at the time the loan is consummated, the borrower's total monthly debts, including amounts owed under the loan, exceed fifty percent (50%) of the borrower's monthly gross income.

(j) If the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan held by the same lender as noteholder, the lender may not directly or indirectly finance:

1. Any prepayment fees or penalties payable by the borrower; or

2. Points and fees, excluding those provided for in 12 CFR 226.4(c)(7), which in the aggregate are in excess of four percent (4%) of the total amount financed.

(k) A lender or mortgage loan broker may not, within one (1) year of the consummation of a high-cost home loan, charge a borrower points and fees in connection with a high-cost home loan if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan on which points were charged. A lender may not, at any time, charge a borrower points and fees in addition to those allowed by 12 CFR 226.4(c)(7) if the proceeds of the high-cost home loan are used to refinance an existing high-cost home loan, on which points were charged, held by the same lender as noteholder. However, points and fees in accordance with this section may be charged on any proceeds of a high-cost home loan which are in excess of the amount refinanced on the existing high-cost home loan.

(l) A lender may not pay a contractor under a home-improvement contract from the proceeds of a high-cost home loan other than by an instrument payable to the borrower or jointly to the borrower and the contractor, or at the election of the borrower, through a third-party escrow agent in accordance with terms established in a written agreement signed by the borrower, the lender, and the contractor prior to the disbursement.

(m) A lender shall not refinance, replace, or consolidate a zero interest rate or low interest rate loan made by a governmental or nonprofit lender with a high-cost home loan. For purposes of this paragraph, a low interest rate loan is defined as a loan that carries a current interest rate that is two (2) percentage points or more below the current yield on United States Treasury securities with a comparable maturity.

(n) A lender shall not finance single premium credit life, credit accident, credit health, credit disability, or credit loss of income insurance in connection with a high-cost home loan.

(o) A lender shall not make a high-cost home loan unless the lender has made available to the borrower a videotape, or other similar audio-video media format such as DVD or CD, approved by the Department of Financial Institutions, which explains the borrower's rights and responsibilities with regard to this section or high-cost home loans. A lender shall have available for viewing at least one (1) copy of the video in the principal office and each branch office of the lender.

(p) A lender shall not make a high-cost home loan subject to a mandatory arbitration clause that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of consumers. Arbitration clauses that comply with the standards set forth in the Statement of Principles of the National Consumer Dispute Advisory Committee of the American Arbitration Association in effect on the effective date of this Act shall be presumed not to violate this subsection.

(q) A lender shall not charge a late payment fee on a high-cost home loan except in accordance with the following:

1. The late payment fee may not be in excess of five percent (5%) of the amount of the payment past due or ten dollars ($10), whichever is greater;

2. The late payment fee may only be assessed for a payment past due fifteen (15) days or more; and

3. The late payment fee may only be charged once with respect to a single late payment.

(r) A lender may not charge a borrower a fee in excess of ten dollars ($10) or actual costs, whichever is greater, per request for a written payoff calculation on a high-cost home loan for the first two (2) requests by a borrower in a calendar year.

(s) A lender shall not initiate a foreclosure or other judicial process to terminate a borrower's interest in residential real property subject to a high-cost home loan without first providing the borrower, at least thirty (30) days prior to the initiation of any process, written notice of default and of the borrower's right to cure. The notice shall include a statement of the amount needed to be paid by the borrower in order to cure the default and the date by which the payment is due to cure the default. If the amount needed to be paid will change during the thirty (30) day notice period, the notice shall provide information sufficient to enable a calculation of the daily change.

(t) A lender shall not recommend or encourage default on an existing loan or other debt in connection with the closing of a high-cost home loan that refinances all or a portion of the existing loan or debt.

(3) Except as provided in paragraph (e) of subsection (2) of this section, the making of a high-cost home loan which violates any provisions of subsection (2) of this section is usurious, subject to the penalties of this chapter, and unlawful as an unfair and deceptive act or practice in or affecting commerce in violation of the provisions of KRS 367.170. The provisions of this section shall apply to any person who in bad faith attempts to avoid the application of

this section by:

(a) The structuring of a loan transaction as an open-end credit plan for the purpose and with the intent of evading the provisions of this section when the loan would have been a high-cost home loan if the loan had been structured as a closed-end loan; or

(b) Dividing any loan transaction into separate parts for the purpose and with the intent of evading the provisions of this section; or

(c) Any other such subterfuge.

The Attorney General, the commissioner of the Department of Financial Institutions, or any party to a high-cost home loan may enforce the provisions of this section. Any person seeking damages or penalties under the provisions of this section may recover damages under either this chapter or KRS Chapter 367, but not both.

(4) A lender of a high-cost home loan who, when acting in good faith, fails to comply with subsection (2) of this section, will not be deemed to have violated this section if the lender establishes that either:

(a) Within thirty (30) days of the loan closing the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made, at the choice of the borrower, to the loan to either:

1. Make the high-cost home loan satisfy the requirements of subsection (2) of this section; or

2. Change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section; or

(b) The compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, and within sixty (60) days after the discovery of the compliance failure, the borrower is notified of the compliance failure, appropriate restitution is made, and whatever adjustments are necessary are made to the loan to either, at the choice of the borrower, make the high-cost home loan satisfy the requirements of subsection (2) of this section or change the terms of the loan in a manner beneficial to the borrower so that the loan will no longer be considered a high-cost home loan subject to the provisions of this section. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors.

(c) For purposes of this subsection, "appropriate restitution" means the reimbursement by the lender of any points, fees, interest, or other charges made by the lender and received from the borrower necessary to put the borrower in the same position as he or she would have been had the loan, as adjusted in accordance with paragraphs (a) and (b) of this subsection, been originally made.

(5) For purposes of this section, any extension of credit shall be deemed to have been made in the Commonwealth of Kentucky, and therefore subject to the provisions of this section, if the lender offers or agrees in Kentucky to lend to a borrower, who is a resident of Kentucky, on real property located within the Commonwealth of Kentucky, or if such borrower accepts or makes the offer in Kentucky to borrow, regardless of the situs of the contract as specified therein. Any oral or written solicitation or communication to lend originating outside of Kentucky, but forwarded to and received in Kentucky by a borrower who is a resident of Kentucky, shall be deemed to be an offer or agreement to lend in Kentucky and, therefore, subject to this section. Any oral or written solicitation or communication to borrow originating within Kentucky, from a borrower who is a resident of Kentucky, but forwarded to and received by a lender outside of Kentucky, shall be deemed to be an acceptance or offer to borrow in Kentucky. Any oral or written offer, acceptance, solicitation, or communication to lend or borrow, made in Kentucky to, or received in Kentucky from, a borrower who is not a resident of Kentucky, shall be subject to the provisions of this section, applicable federal law, law of the situs of the contract, or law of the residence of the borrower, as the parties may elect. The provisions of this section shall be severable and if any phrase, clause, sentence, or provision is declared to be invalid, the validity of the remainder of this section shall not be affected thereby.

Section 13. KRS 367.410 is amended to read as follows:

As used in KRS 367.410 to 367.450, unless the context otherwise requires:

"Home solicitation sale" means a sale of goods or services*, including consumer loans,* in which the seller or a person acting for him engages in a personal solicitation of the sale at a residence of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him. It does not include a sale made pursuant to prior negotiations between the parties*, by telephone initiated by the buyer or* at a business establishment at a fixed location where goods or services*, including loans,* are offered or exhibited for sale.

Section 14. KRS 367.420 is amended to read as follows:

(1) Except *for home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer as provided in subsection (6) of this section, and except* as provided in subsection (5) *for other goods and services, including all other consumer loans*, in addition to any right otherwise to revoke an offer, the buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with this part.

(2) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement

or offer to purchase.

(3) Notice of cancellation, if given by mail, is given when it is deposited in a mailbox properly addressed and postage prepaid.

(4) Notice of cancellation given by the buyer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.

(5) The buyer may not cancel a home solicitation sale if the buyer requests the seller to provide goods or services without delay because of an emergency, and

(a) The seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation, and

(b) In the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer.

(6) For home solicitation sales on loans in which a security interest is taken in the principal dwelling of the buyer, the buyer shall have the right to rescind or cancel the transaction until midnight of the third business day following the later of the consummation of the loan transaction or the delivery of the material disclosures required under the Truth in Lending Act, 15 U.S.C. 1601 et seq.

SECTION 15. A NEW SECTION OF KRS CHAPTER 294 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "physical location" means an actual office where the business of mortgage lending or the business of taking or soliciting mortgage loan applications is conducted. The office shall have a street address. A post office box or similar designation shall not meet the requirements of this section. The office shall be accessible to the general public as a place of business and shall hold itself open on a regular basis during posted hours, unless the office is in the residence of the mortgage loan broker and proof of residence has been submitted as required by subsection (7) of Section 4 of this Act.

(2) (a) Each mortgage loan broker licensed under this chapter shall maintain a physical location in this state.

(b) Any mortgage loan broker licensed under this chapter who, on the effective date of this Act, does not maintain a physical location in this state shall have ninety (90) days after the effective date of this Act in which to establish one. After the ninety (90) day period, a mortgage loan broker licensed under this chapter on the effective date of this Act shall not transact business in Kentucky if the licensed mortgage loan broker does not maintain a physical location in this state.

(3) The license certificate of a mortgage loan broker shall be at all times prominently displayed at the mortgage loan broker's physical location.

HB 369, AN ACT relating to state risk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.055 is amended to read as follows:

(1) Any state agency, as defined in KRS Chapter 12, may in its discretion, for the protection of the public and its employees, expend state funds to purchase policies of insurance of all kinds deemed advisable covering vehicles, including boats, owned by the state and operated by state employees when in the conduct of official business. The commissioner of insurance, upon recommendation of the secretary of the Finance and Administration Cabinet, shall initiate and be responsible for the purchase of a blanket liability insurance policy to cover the officers and employees of the several state agencies and shall determine, by administrative regulation, the policy limits that shall be applicable to the persons covered in each such affected agency[~~ not to exceed the limit prescribed in KRS 44.070~~].

(2) Nothing contained in this section shall be construed to be a waiver of sovereign immunity and claims against the Commonwealth, its agencies, officers, employees, or insurers may be asserted only in the manner set forth in KRS 44.070 to 44.160.

(3) Policies authorized by this section shall be purchased only from insurers authorized to do business in this state and shall be countersigned by a licensed resident agent.

Section 2. KRS 56.080 is amended to read as follows:

Before July 1 of each year, the Department of Insurance shall reconsider its appraisal and valuation of ***all real property***[~~public buildings~~] and personal property belonging to or under the control and use of the state or any state agency, and shall certify any changes in value to the agency that has the custody or control of the property. The appraisal and valuation shall equal the amount that the Department of Insurance deems necessary to replace the property at the time of the appraisal, which may be less actual depreciation.

Section 3. KRS 56.090 is amended to read as follows:

Before July 1 of each year the Department of Insurance shall fix, upon ***all real property***[~~each public building~~] and[~~ upon~~] each class of personal property belonging to or controlled or used by the state or any agency of the state, the rate of premium that the Department of Insurance deems to be the average rate charged by responsible insurance companies doing business in this state for insurance against damage by fire and other hazards upon property of like kind and degree of risk. The premium and insurance shall be calculated upon ***one-hundred percent (100%)***[~~ninety percent (90%)~~] of the valuation ***of all real property and each class of personal property***. Before July 1 of each year the Department of Insurance shall certify to the State Treasurer the premium to be charged against each agency of the state.

Section 4. KRS 56.100 is amended to read as follows:

(1) Each fiscal year the State Treasurer shall deduct from any funds in his hands payable to an agency for the care and maintenance of ***real and personal***[~~public buildings or~~] property, an amount equal to the premiums certified to him as chargeable against that agency. The amount so debited shall be credited to an account kept by the State Treasurer and known as the state fire and tornado insurance fund. No premium shall be charged on any one (1) subject of risk upon a valuation of more than ***one million dollars ($1,000,000)***[~~five hundred thousand dollars ($500,000)~~] unless the Department of Insurance has contracted for reinsurance that limits the liability of the fund to ***one million dollars ($1,000,000)***[~~five hundred thousand dollars ($500,000)~~] upon such subject of risk.

(2) The department shall prescribe a certificate setting forth the terms and conditions of coverage under the state fire and tornado insurance fund. Different forms of certificates may be used for different risks. Such certificates may contain such terms and conditions as the department may prescribe, including, but not limited to, a deductible in order that there be fair allocation of significant losses and the elimination of unnecessary costs in administering the state fire and tornado insurance fund.

Section 5. KRS 56.120 is amended to read as follows:

When the amount of damage has been determined, the State Treasurer shall debit the account of the state fire and tornado insurance fund by that amount and credit[~~ with~~] an equal amount ***to*** the account of the agency that has control or custody of the property damaged, and upon warrant from the Finance and Administration Cabinet, the Treasurer shall pay to the agency the amount so credited to it, for the purpose of repairing the damage or reconstructing or replacing the damaged or destroyed property. If the agency deems it impracticable or undesirable to use the money for repair, reconstruction, or replacement of the property damaged or destroyed, it may, with the approval of the Finance and Administration Cabinet, and subject to the provisions of KRS 56.491, expend said funds for the acquisition, repair, construction, or reconstruction of property similar to the property damaged or destroyed. No debit, credit, or payment made on account of the damage to any one (1) subject of risk, by any one (1) loss, shall be in excess of ***one million dollars ($1,000,000)***[~~five hundred thousand dollars ($500,000)~~], unless the Department of Insurance has effected reinsurance upon the subject of risk such as to limit the liability of the state fire and tornado insurance fund to ***one million dollars ($1,000,000)***[~~five hundred thousand dollars ($500,000)~~], and unless the excess over this amount has actually been paid into the fund by the reinsuring company or companies.

Section 6. KRS 56.140 is amended to read as follows:

(1) The State Treasurer, with approval of every investment by the Finance and Administration Cabinet, may invest the state fire and tornado insurance fund in ***compliance with KRS 42.500***[~~:~~

~~(a) Obligations of the United States government, its agencies, and Kentucky cities of the first, second, third, and fourth classes;~~

~~(b) Warrants issued on the State Treasurer;~~

~~(c) State bonds, including bridge revenue bonds issued under KRS 180.010 to 180.250;~~

~~(d) Bonds or other evidences of indebtedness of any domestic corporation that is an agent or instrumentality of the state or of any city, county, or school district of the state, secured by a mortgage on real estate in Kentucky that has been conveyed to the corporation by any city, county, school district, or state educational institution, and which the corporation has leased and given the option to lease to the city, county, school district, or state educational institution, with option in the lessee to purchase the property, or an interest therein, on the payment of the aggregate sum of the bond issue, plus the expenses incident to the issuance of the bonds and the formation and dissolution of the corporation, subject to credit of the amounts paid as rental for such property; and~~

~~(e) School bonds issued by cities under KRS 162.120 to 162.290~~].

(2) The Finance and Administration Cabinet shall not approve investments on which there has ever been a default in payment of principal or interest preceding the date of acceptance by the State Treasurer.

(3) All income from investments credited to the state fire and tornado insurance fund shall be credited to that fund.

Section 7. KRS 56.150 is amended to read as follows:

The Department of Insurance and the State Treasurer may employ such assistance and incur such expenses as are necessary to carry out the purposes of KRS 56.070 to 56.180, subject to approval in advance by the Finance and Administration Cabinet. All such expenses may be debited against the state fire and tornado insurance fund, and paid on warrant of the Finance and Administration Cabinet***.***[~~, but~~] The total of such expenses during any fiscal year shall not exceed ten percent (10%) of the total ***calculated standard premiums, prior to the application of any experience credits,***[~~receipts of the fund~~] during the same fiscal year. If such expenses are incurred at a time when there is not a sufficient amount in the fund to pay them, they shall constitute a prior claim to be paid out of the first ***premium*** receipts of the fund thereafter before any damages on account of insured losses are paid.

Section 8. KRS 56.160 is amended to read as follows:

With the approval of the Finance and Administration Cabinet, the Department of Insurance may contract with any responsible ***property and casualty insurer***[~~fire and tornado insurance or reinsurance company~~] authorized to do business in Kentucky to reinsure any subject of risk of which the total valuation has been fixed at over ***one million dollars ($1,000,000)***[~~five hundred thousand dollars ($500,000)~~] in such a way as to limit the net liability of the state fire and tornado insurance fund with respect to such subject of risk to ***one million dollars ($1,000,000)***[~~five hundred thousand dollars ($500,000)~~]. The premium for reinsurance shall be paid out of the state fire and tornado insurance fund, on warrant of the Finance and Administration Cabinet.

Section 9. KRS 56.170 is amended to read as follows:

If the Department of Insurance becomes aware of a hazard in any building owned or occupied by the state or any agency thereof, the Department may make recommendations regarding the removal or correction of the hazard to the agency having control or custody of the building[~~The Department of Insurance shall annually have an inspection made of each building and its contents owned by the state or any agency thereof, for the purpose of determining the unnecessary causes of a fire hazard therein, and shall make recommendations to the agency having control or custody of the building relative to the removal or correction of the hazard~~]. Reasonable differences in the premium chargeable against the agency on account of the building and its contents may be made contingent upon compliance with such recommendations.

Section 10. KRS 304.44-010 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Department" means the Department of Insurance;

(2) "Mine subsidence" means the collapse of underground coal mines resulting in direct damage to a structure. It does not include loss caused by earthquake, landslide, water seepage, volcanic eruption, or collapse of storm, and sewer drains;

(3) "Mine subsidence insurance fund" or "fund" means the fund established by this subtitle and administered as determined by the department;

(4) "Policy" means a contract of insurance providing mine subsidence insurance;

(5) "Premium" means the gross rate charged policyholders for insurance provided by this subtitle;

(6) "***Dwelling*** structure" means any dwelling, building, or fixture permanently affixed to realty, but does not include land, trees, plants, or crops;[~~ and~~]

(7) "Administrator" means the organization designated by the commissioner of the department to administer the fund***; and***

(8) "Nondwelling structure" means any structure that is not principally used for residential purposes or that houses more than four family units and is permanently affixed to realty, but does not include land, trees, plants, or crops.

Section 11. KRS 304.44-030 is amended to read as follows:

After July 15, 1984, every insurance policy issued or renewed insuring on a direct basis a structure located in a county or portion of a county in this state except for counties exempted pursuant to KRS 304.44-060 shall include, at a separately stated premium, insurance for loss occurring after July 15, 1984, caused by mine subsidence unless waived in writing by the insured. The premium charged for coverage shall be the same as the premium level set by the administrator. The loss coverage shall be the loss in excess of two percent (2%) of the policy's total insured value, but at no time shall the deductible be less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500). The total insured value reinsured by the administrator shall not exceed one hundred thousand dollars ($100,000) per ***dwelling*** structure ***and two hundred thousand dollars ($200,000) per nondwelling structure***. The insurer shall not be required to write a policy for mine subsidence coverage in excess of the amount reimbursable from the fund as authorized by this subtitle.

Section 12. KRS 304.44-050 is amended to read as follows:

All insurers writing property insurance covering structures in this state shall enter into a reinsurance agreement with the administrator in which each insurer agrees to cede to the administrator one hundred percent (100%), up to ***two***[~~one~~] hundred thousand dollars ***($200,000)***[~~($100,000)~~], of any subsidence insurance coverage issued and, in consideration of the ceding commission retained by the insurer, agrees to undertake adjustment of losses, and payment of taxes, and to absorb all other expenses of the insurer necessary for sale of policies and administration of the mine subsidence insurance program. The administrator shall agree to reimburse the insurer from the fund for all amounts paid policyholders for claims resulting from subsidence and shall pay from the fund all costs of administration incurred by the administrator, but an insurer is not required to pay any claim for any loss insured under this subtitle except to the extent that the amount available in the mine subsidence insurance fund is sufficient to reimburse the insurer for such claim. Claims made under the provisions of the subtitle shall not be deemed to constitute a debt, liability, or obligation of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any political subdivision except to the extent the fund has accumulated reserves from premiums, state or federal grants, investment income, or state appropriations.

HB 379, AN ACT relating to insurance rate filings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.13-051 is amended to read as follows:

(1) ***(a)*** In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be

used in this state for ***medical malpractice risks, other*** commercial risks as designated by the commissioner and for all personal risks. The rates and supplementary rate information shall be filed not later than fifteen (15) days after the date of first use of the rates, unless the commissioner finds after a hearing that an insurer's rates require closer supervision because of the insurer's financial condition. On a finding, rates for both personal and commercial risks, supplementary rate information, and supporting information shall be filed with the commissioner at least thirty (30) days before the effective date of the rates. An order shall expire no later than one (1) year after it is issued.

(b) The commissioner may, when the commissioner deems it in the public interest, hold a public hearing on any filing under this subsection within thirty (30) days after all rates and supplementary rate information have been filed. The commissioner may extend the thirty (30) day period by an additional thirty (30) day period.

(c) As to medical malpractice insurance, at the time of filing a proposed rate increase with the commissioner, the insurer shall notify each policyholder that the insurer has filed a proposed rate increase. The notice shall state the percentage by which the policyholder's current premium is anticipated to increase if the proposed rate increase is approved as filed.

(2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.

(3) Any rate filing in effect at the time the commissioner determines that competition does not exist pursuant to KRS 304.13-041 shall be deemed to be effective until disapproved pursuant to the procedures and rating standards of this chapter.

(4) Every insurer shall file with the commissioner all rating manuals and underwriting rules that it uses in this state not later than fifteen (15) days after they become effective. Manuals, rules, and guidelines must be adhered to until amended. The commissioner may exempt an insurer from filing supporting information if it files by reference, with or without deviation, to a filing which is in effect for another insurer or an advisory organization.

(5) (a) No insurer shall place into effect any rates, manuals, or underwriting rules which it proposes to use pursuant to subsection (1) or (4) of this section if the rates, manuals or underwriting rules will result in an increase or decrease of more than twenty-five percent (25%) from the insurer's then existing rates for any classification of risks in any of its rating territories within a twelve (12) month period of time.

(b) Any insurer which proposes to change its then existing rates, manuals, or underwriting rules so as to effectively increase or decrease the rates of any classification of risks within any rating territory more than twenty-five percent (25%) within a twelve (12) month period shall file all the rates and supplemental rating information which shall not become effective until approved by the commissioner.

(6) Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner.

(7) The commissioner shall review filings made in accordance with subsections (2), (5)(b) and (6) of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days if he gives written notice within the waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The commissioner may, when he deems it to be in the public interest, hold a public hearing on any filing before the filing becomes effective to determine whether the filing meets the requirements of this subtitle. In the event that a hearing is held under the provisions of this subsection, the waiting periods specified in this subsection shall not begin to run until thirty (30) days after the close of the hearing. The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes the filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

(8) At any hearing concerning an increase in worker's compensation rates conducted pursuant to subsection (7), the commissioner may approve a rate other than one that has been proposed by the filer if it is justified by the evidence presented at the hearing.

HB 388, AN ACT relating to the discharge of a security interest.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.045 is amended to read as follows:

(1) ***A perfected security interest in a motor vehicle that has been satisfied by payment in full shall be deemed to have been discharged if one (1) or both of the following events has occurred:***

(a) The funds to pay in full and discharge the security interest have been provided to the secured party in the form of a cashier check, certified check, or wire transfer; or

(b) The debt has been paid to a secured party who is no longer in existence or has failed to file the necessary documents to discharge the lien.

(2) If payment in full has been made under subsection (1)(a) of this section, the discharge of the lien shall be made not

later than ten (10) days from the receipt of the payment.

(3) ***When a security interest has been paid in full and a termination statement or discharge has not been filed, the debtor may petition the Circuit Court in the county of the debtor's residence to order the discharge of the security interest. The debtor shall present written evidence to the Circuit Court that the security interest has been paid in full. If the evidence presented to the Circuit Court proves to the court's satisfaction that the security interest has been paid in full, the court shall order the security interest discharged. A copy of the court's order shall immediately be sent to the county clerk in the county where the security interest was originally filed and the county clerk shall immediately discharge the security interest and remove the lien information from AVIS in accordance with the provisions of this section.***

(4) Whenever a security interest has been discharged, other than by proceedings under Part 6 of Article 9 of KRS Chapter 355 or similar proceedings, the secured party shall deliver a termination statement in the manner required by KRS 355.9-513 to the county clerk of the county in which the title lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). ***Except as provided in subsection (3) of this section,*** within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed. Upon presentation of the owner's title showing ***a***[~~such~~] security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on ***the***[~~such~~] title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the title lien statement was removed. Termination statements ***shall***[~~must~~] be retained in the clerk's files for a period of two (2) years subsequent to the date of filing ***a***[~~such~~] statement, at which time they may be destroyed. The fee for these services are included in the provisions of KRS 186A.190.

(5)[~~(2)~~] Upon presentation of ***an***[~~the~~] owner's title showing ***a***[~~such~~] security interest to the county clerk of a county where the termination statement was not delivered, the county clerk[~~ of that county~~] shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If ***a***[~~such~~] record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered, shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If ***a***[~~such~~] record of termination has not been entered into the automated system,[~~ in no case shall~~] the county clerk of the county other than where the termination statement was delivered ***shall not***[~~,~~] make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the title lien statement was submitted.

(6)[~~(3)~~] Whenever any secured party repossesses a vehicle titled in ***Kentucky***[~~this Commonwealth~~], for which a security interest is in existence at the time of repossession, and disposes of ***the***[~~such~~] vehicle pursuant to the provisions of KRS Chapter 355, he ***shall***[~~must~~] present, within fifteen (15) days after such disposition, an affidavit in ***a*** form prescribed by the department and a termination statement or proof that ***a***[~~such~~] termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such title which is superior to the one under which the vehicle was repossessed, ***shall***[~~must~~] be shown on the title issued by the clerk unless the prior secured party has discharged ***the***[~~such~~] security interest in ***the***[~~such~~] clerk's office or proof of termination is submitted***, if the***[~~in case such~~] prior security interest was discharged in another clerk's office.

(7)[~~(4)~~] Whenever any vehicle brought into ***Kentucky***[~~this Commonwealth~~] is required to be titled ***and the***[~~in this Commonwealth and such~~] vehicle is then subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk is prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or title lien statement and presents same to the clerk along with the fees required in KRS 186A.190. The clerk shall note the out-of-state security interest on the certificate of title. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

(8)[~~(5)~~] The fees provided for in this section are in addition to any state fee provided for by law.

(9)[~~(6)~~] Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(10)[~~(7)~~] The county clerk is prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner ***is responsible for ensuring***[~~must see to it~~] that a discharge is noted on the certificate of title for each security interest and then a duplicate title as provided for in KRS 186A.180

shall[~~must~~] be obtained from the clerk by the owner of the vehicle.

(11)[~~(8)~~] Security interests in vehicles sold to or owned by residents of other states ***shall***[~~must~~] be perfected in the state of ***the***[~~such~~] nonresident and repossession of the vehicle ***shall***[~~must~~] be taken pursuant to the laws of ***that***[~~such~~] state, unless***:***[~~ the vehicle~~]

(a) ***The vehicle*** is principally operated in Kentucky***;***[~~ and~~]

(b) ***The vehicle*** is properly titled ***in Kentucky***[~~herein~~] under KRS Chapter 186A***;*** and

(c) The security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

Section 2. KRS 186A.190 is amended to read as follows:

(1) Except as provided in subsection (4) of this section, the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of seven (7) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for seven (7) additional years.

(2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:

(a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its office is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited liability company organized under KRS Chapter 275 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

(e) A corporation not organized under the laws of this state, but authorized to transact or do business in this state under KRS Chapter 271B, 273, or 274, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275, shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent filing with the Secretary of State which officially designates its current registered office;

(f) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(g) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(i) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and

(j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited partnership or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky,[~~ the sole means of~~] perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on ***the***[~~such~~] property's certificate of title ***under the provisions of this chapter or in accordance with the provisions of subsection (3) of Section 1 of this Act***. In other respects the security interest is governed by the provisions of KRS Chapter 355.

(3) Except as provided in subsection (4) of this section, before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, ***a***[~~no~~] subsequent title ***shall not***[~~may~~] be issued by any county clerk free of ***the***[~~such~~] notation unless the owner's title is presented to the clerk and it has been noted thereon[~~,~~] that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk. ***If information relating to the discharge of a security interest is presented to a clerk under the provisions of subsection (3) of Section 1 of this Act, the clerk shall immediately discharge the security interest and remove the lien information from AVIS.***

(4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall, following inspection of the vehicle by the sheriff, to determine that the vehicle has not been stolen, issue a new title to a vehicle, clear of all prior liens, to a person after he provides to the county clerk an affidavit devised by the Transportation Cabinet and completed by the person. In the affidavit, the person shall attest that:

(a) He possesses the vehicle;

(b) A debt on the vehicle was owed him for more than thirty (30) days before he provided the notices required by paragraphs (c) and (d) of this subsection;

(c) More than fourteen (14) days before presenting the affidavit to the county clerk, the person attempted to notify the owner of the vehicle and all known lienholders, including those noted on the title, by certified mail, return receipt requested, of his name, address, and telephone number as well as his intention to obtain a new title, clear of all prior liens, unless the owner or a lienholder objected in writing;

(d) More than fourteen (14) days before presenting the affidavit to the county clerk, the person had published a legal notice stating his intention to obtain title to the vehicle. The legal notice appeared at least twice in a seven (7) day period in a newspaper published, and with a statewide circulation, in Kentucky. The legal notice stated:

1. The person's name, address, and telephone number;
2. The owner's name;
3. The names of all known lienholders, including those noted on the title;
4. The vehicle's make, model, and year; and
5. The person's intention to obtain title to the vehicle unless the owner or a lienholder objects in writing within fourteen (14) days after the last publication of the legal notice; and

(e) Neither the owner nor a lienholder has objected in writing to the person's right to obtain title to the vehicle.

(5) No more than two (2) active security interests may be noted upon a certificate of title.

(6) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number, and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.

(7) For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012. The fee prescribed by this subsection shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.

(8) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

Section 3. KRS 186A.210 is amended to read as follows:

(1) When a security interest has been discharged under the provisions of subsection (3) of Section 1 of this Act, the county clerk shall immediately discharge the security interest and remove the lien information from AVIS.

(2) When[~~Whenever~~] a security interest[~~ to a vehicle~~] has been discharged as provided by KRS 186.045***(5)***[~~(2)~~], the county clerk of a county that is operating under automated procedures shall, upon receiving a termination statement, within five (5) days enter the record of termination into the automated system. The automated system shall be programmed to allow a county clerk in a county where the termination statement was not received to access the automated system to determine the county and date that the record of termination was entered into the automated system. The clerk of the county where the termination statement was received shall then release the lien recorded upon the title in the manner directed by the Department of Vehicle Regulation, and take such other action with respect to a termination as is directed by the

Department of Vehicle Regulation.

Section 4. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. ***The***[~~Such~~] motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the Armed Forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were previously registered in Kentucky;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(12) The interest of a partner in a motor vehicle when other interests are transferred to him;

(13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045*(7)*[~~(4)~~]. The repossessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle; and

(14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only.

Section 5. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045*(5)*[~~(2)~~], 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4)(a), 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.

(3) A person who violates the provisions of KRS 186.450(4) or (5) shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.

(4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade

the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

Section 6. KRS 186A.205 is amended to read as follows:

Whenever a security interest is assigned as provided by KRS 186.045***(4)***[~~(1)~~], the county clerk of a county that is operating under automated procedures shall, in addition to carrying out his requirements stated therein, enter the record of lien assignment into the automated system in the manner directed by the Department of Vehicle Regulation.

The Committee on Appropriations and Revenue reported **HB 294** with Committee Substitute attached thereto, and **HJR 82** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 294** is as follows:

HB 294, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth and its various officers, boards, commissions, subdivisions, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2002-03	2003-04
General Fund	144,659,600	150,490,400
Restricted Funds	11,178,100	11,701,100
Federal Funds	2,956,200	1,223,800
Total	158,793,900	163,415,300

Funds are included to provide a cost-of-living adjustment amounting to an annualized value of $1,080 in fiscal year 2003-2004 for nonelected permanent full-time court personnel. As provided in KRS 48.195, funds are included to provide a cost-of-living adjustment amounting to an annualized value of $1,080 for justices and judges in fiscal year 2003-2004. Notwithstanding KRS 64.056, funds are included to provide a cost-of-living adjustment amounting to an annualized value of $1,080 for the circuit clerks in fiscal year 2003-2004. Notwithstanding KRS 64.057, funds are included to provide a cost-of-living adjustment amounting to an annualized value of $1,080 for deputy circuit clerks in fiscal year 2003-2004. The Director of the Administrative Office of the Courts shall determine a pro rata equivalent value of the $1,080 which amount shall be awarded to permanent part-time employees. Commencing with an eligible official's or employee's anniversary date, the cost-of-living adjustment shall be disbursed by payroll period in one-twenty-fourth installment for the duration of employment. The cost-of-living adjustment shall be part of the salary or compensation base of the employee. Also included are funds for the salaries of the circuit clerks in fiscal year 2002-2003 and in fiscal year 2003-2004 as provided for in the Judicial Branch Budget Recommendation.

Notwithstanding KRS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

Included in the above appropriation is $125,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 to support the Kentucky Legal Education Opportunities (KLEO) Program. Participants may be required to meet certain grade point average (GPA) conditions. Both phases of the Kentucky Legal Education Opportunities (KLEO) Program shall be operational for fiscal year 2003-2004.

b. Local Facilities Fund

	2002-03	2003-04
General Fund	49,346,300	57,845,300

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance remaining at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004.

c. Local Facilities Use Allowance Contingency Fund

	2002-03	2003-04
General Fund	0	0

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2001-2002 shall not lapse and shall continue into fiscal year 2002-2003, and any unexpended balance remaining at the close of fiscal year 2002-2003 shall not lapse and shall be continued into fiscal year 2003-2004 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A. For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Total Court of Justice

	2002-03	2003-04
General Fund	194,005,900	208,335,700
Restricted Funds	11,178,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	208,140,200	221,260,600

2. Judicial Form Retirement System

	2002-03	2003-04
General Fund	2,500,600	2,519,400
Restricted Funds	145,000	
TOTAL	2,645,600	2,519,400

General Fund amounts are included to provide for the 2001 actuarial assessed needs of the Judicial Form Retirement System.

TOTAL - OPERATING BUDGET

	2002-03	2003-04
General Fund	196,506,500	210,855,100
Restricted Funds	11,323,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	210,785,800	223,780,000

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects
   a. Franklin County - Lease Office Space
   b. Franklin County - Lease Court of Appeals
   c. Jefferson County - Courts Parking Lease

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

TOTAL - JUDICIAL BRANCH BUDGET

	2002-03	2003-04
General Fund	196,506,500	210,855,100
Restricted Funds	11,323,100	11,701,100
Federal Funds	2,956,200	1,223,800
TOTAL	210,785,800	223,780,000

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts, with the approval of the Chief Justice, may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2003 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal funds accounts at the close of the fiscal years ending June 30, 2002, and June 30, 2003, shall not lapse and shall continue into the next fiscal year.

7. Proposed revisions to Restricted Funds and Federal Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2002-2004 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2003 Regular Session of the General Assembly.

9. Funding for the Commonwealth's family courts has been continued during fiscal year 2002-2003 and fiscal year 2003-2004.

10. The sum of $6,000,000 from the General Fund carried forward from fiscal year 2001-2002 into fiscal year 2002-2003 in the Local Facilities Fund shall be lapsed to the credit of the General Fund Surplus Account within 30 days of the effective date of this Act.

11. It is the intent of the General Assembly that the Court of Justice shall not eliminate or reduce the number of District Court or Circuit Court employees below the level employed on January 1, 2003.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

The Committee on Licensing and Occupations reported **HB 250,** with Committee Substitute attached thereto, **HB 268,** with Committee Substitute attached thereto, **HB 365,** and **HB 366,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 250, AN ACT relating to optometrists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.321 is amended to read as follows:

(1) Grievances may be submitted by an individual, organization, or entity, including the board based upon information within the board's knowledge. The board may investigate any suspected grounds for disciplinary action and may hire persons to investigate on its behalf. The board shall have the power to issue investigatory subpoenas for the appearance before the

board of any person within the jurisdiction of the Commonwealth of Kentucky and to require production of any record, document, or other item. The board may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary. A copy of the grievance shall be mailed to the licensee at the last address that the board has on record. If the licensee chooses to respond to the grievance, he or she shall submit a response within ten (10) days after the date on which the grievance was mailed.

(2) *For the purpose of enforcing the provisions of this chapter, agents of the board, whose qualifications shall be determined by administrative regulations promulgated by the board, shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, including records, to interrogate all persons, and to require the production of books, papers, documents, or other evidence. The term "premises" as used in this subsection shall include optometric offices and other locations where unlicensed individuals are engaged in the practice of optometry. Such inspection or seizure of records shall not affect the confidential nature of those records.*

(3) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin the practice of optometry by the following:

(a) An individual who is not licensed to practice optometry pursuant to KRS 320.250, 320.260, and 320.270, or who is involved in conduct not specifically exempted from the requirements of this section by KRS 320.220; or

(b) An individual who was previously licensed by the board to practice optometry but is currently practicing optometry in violation of KRS 320.300, 320.310, or 320.312, regardless of whether the respondent has been convicted for violation of the penal provisions thereof.

(4) A petition for injunction filed under subsection (3) of this section may be filed in Franklin Circuit Court, in the county of residence of the respondent, or in the county in which the acts are alleged to have been committed, and the board shall not be required to pay any costs or filing fees or furnish any bond in connection therewith.

(a) In the petition it shall be sufficient to charge that the respondent on a day certain in a named county engaged in the practice of optometry in violation of KRS 320.300, 320.310, or 320.312. No showing of damage or injury shall be required.

(b) Issuance of an injunction shall enjoin any act specified under KRS 320.300, 320.310, or 320.312, and shall remain in place as long as necessary to prevent the unlawful practice of optometry.

(c) Issuance of an injunction shall not relieve the respondent from being subject to any other proceeding under law provided by this section or otherwise.

(d) Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

(5) The board may initiate disciplinary proceedings based upon information within its knowledge or received from other persons. A majority of the board members may direct the issuance of a complaint; in these instances, the board shall prepare a written complaint, in accordance with KRS Chapter 13B, that shall be signed by the chairman of the board and shall contain sufficient information to apprise the named optometrist of the nature of the charges. A copy of the complaint shall be delivered to the charged optometrist by personal delivery or sent by certified mail to the optometrist's last address that the board has on record. The optometrist shall file a response within twenty (20) days after the complaint was sent or personally served upon the optometrist. Failure to submit a timely response or avoidance of service may be taken by the board as an admission of the charges contained in the complaint. The board may then review the grievance, information obtained by the board, and the optometrist's response, and dismiss the grievance, issue a complaint and notice of hearing, or investigate further.

(6)[~~(3)~~] The hearing shall be conducted in accordance with KRS Chapter 13B.

(7)[~~(4)~~] The board may impose discipline upon the licensee under KRS 320.310 if the board finds a violation of this chapter or administrative regulations promulgated under this chapter, after a hearing.

(8)[~~(5)~~] All costs of the proceeding may be assessed against the charged optometrist if a finding of guilt is made by the board.

The Committee Substitute to **HB 250** is as follows:

HB 250, AN ACT relating to optometrists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.321 is amended to read as follows:

(1) Grievances may be submitted by an individual, organization, or entity, including the board based upon information within the board's knowledge. The board may investigate any ***licensee or unlicensed individual or entity engaged in the practice of optometry*** suspected ***of conduct which would be*** grounds for disciplinary ***or court*** action and may hire ***or appoint*** persons ***who are knowledgeable in the practice of optometry*** to investigate on its behalf. The board shall have the power to issue investigatory subpoenas for the appearance before the board of any person within the jurisdiction of the

Commonwealth of Kentucky and to require production of any record, document, or other item. The board may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary. A copy of the grievance shall be mailed to the licensee ***or unlicensed individual or entity engaged in the practice of optometry*** at the last address that the board has on record ***or has been able to determine***. If the licensee ***or unlicensed individual or entity engaged in the practice of optometry*** chooses to respond to the grievance, he or she shall submit a response within ten (10) days after the date on which the grievance was mailed.

(2) ***Notwithstanding any other provision of law,*** the board may initiate disciplinary proceedings ***or court actions*** based upon information within its knowledge or received from other persons. A majority of the board members may direct the issuance of a complaint; in these instances, the board shall prepare a written complaint, in accordance with KRS Chapter 13B, that shall be signed by the chairman of the board and shall contain sufficient information to apprise the named optometrist ***or unlicensed individual or entity engaged in the practice of optometry*** of the nature of the charges. A copy of the complaint shall be delivered to the charged optometrist ***or unlicensed individual or entity engaged in the practice of optometry*** by personal delivery or sent by certified mail to the optometrist's last address that the board has on record ***or to a site found for an unlicensed individual or entity engaged in the practice of optometry***. The optometrist ***or unlicensed individual or entity engaged in the practice of optometry*** shall file a response within twenty (20) days after the complaint was sent or personally served upon the optometrist ***or unlicensed individual or entity engaged in the practice of optometry***. Failure to submit a timely response or avoidance of service may be taken by the board ***or the court*** as an admission of the charges contained in the complaint. The board may then review the grievance, information obtained by the board, and the optometrist's response ***or the response of the unlicensed individual or entity engaged in the practice of optometry***, and dismiss the grievance, issue a complaint and notice of hearing,[~~ or~~] investigate further***, or bring an action in a court of competent jurisdiction to enforce the provisions of this chapter***.

(3) The hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The board may impose discipline upon the licensee under KRS 320.310 if the board finds a violation of this chapter or administrative regulations promulgated under this chapter, after a hearing.

(5) All costs of the proceeding may be assessed against the charged optometrist ***or unlicensed individual or entity engaged in the practice of optometry*** if a finding of guilt is made by the board ***or by the court***.

SECTION 2. A NEW SECTION OF KRS CHAPTER 320 IS CREATED TO READ AS FOLLOWS:

(1) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin the practice of optometry by the following:

- ***(a) An individual who is not licensed to practice optometry pursuant to this chapter, or who is involved in conduct not specifically exempted from the requirements of this chapter by KRS 320.220; or***
- ***(b) An individual who was previously licensed by the board to practice optometry but is currently practicing optometry in violation of this chapter, regardless of whether the respondent has been convicted of violating the penal provisions thereof.***

(2) A petition for injunction filed under subsection (1) of this section may be filed in Franklin Circuit Court, and the board shall not be required to pay any costs or filing fees or furnish any bond in connection therewith.

- ***(a) In the petition, it shall be sufficient to charge that the respondent on a day certain in a named county engaged in the practice of optometry in violation of this chapter. No showing of damage or injury shall be required.***
- ***(b) Issuance of an injunction shall enjoin any act specified under this chapter and shall remain in place as long as necessary to prevent the unlawful practice of optometry.***
- ***(c) Issuance of an injunction shall not relieve the respondent from being subject to any other proceeding under law provided by this chapter or otherwise.***
- ***(d) Violation of an injunction or restraining order shall be punished as a contempt without the intervention of a jury.***

Section 3. KRS 320.990 is amended to read as follows:

Any person who violates any of the provisions of this chapter shall be guilty of a Class A misdemeanor ***and shall pay a fine not to exceed five thousand dollars ($5,000) per violation***.

HB 268, AN ACT relating to licensing massage therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Licensure for Massage Therapy;

(2) "Board-approved massage program" means one which meets minimum standards for training and curriculum as determined by the board;

(3) "Feldenkrais Method" means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person's own functional movement patterns. The method is based on principles of physics, biomechanics and an understanding of, or learning about, human development. The practice is federally trademarked and requires permission from the Feldenkrais Guild to use the term and methodology;

(4) "Massage therapist" means a person who is licensed by the board to administer massage or massage therapy for the public for compensation;

(5) "Polarity therapy" means diverse applications affecting the human energy system. These applications include energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications. Standards for schools, education, and practice, the administration of a code of ethics, and a registration process are provided by the American Polarity Therapy Association;

(6) "Practice of massage therapy" means the application, by a massage therapist licensed by the board, of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client. The practice includes the external application of water, heat, cold, lubricants, salt scrubs, or other topical preparations; use of electromechanical devices that mimic or enhance the actions of the hands; and determination of whether massage therapy is appropriate or contraindicated, or whether referral to another health care practitioner is appropriate; and

(7) "Trager Approach" means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager Approach combines physical movement with sensory awareness and internal imagery designed to increase the client's self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body. The practice is federally trademarked.

SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Massage therapists practicing under Sections 1 to 16 of this Act shall not perform any of the following: diagnosis of illness or disease; high-velocity, low-amplitude thrust applied to a joint; spinal or pelvic adjustment; deep physical agent modalities, except hydrotherapy methods; application of ultrasound; or prescription of medication.

SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 16 of this Act shall not preclude:

(1) Persons duly licensed, registered, or certified as massage therapists in another state or territory, the District of Columbia, or a foreign country when invited to this state to teach a course related to massage therapy or to consult with a person licensed under Sections 1 to 16 of this Act;

(2) Students practicing massage therapy while enrolled in a program recognized by the board and completing a clinical requirement for graduation while under the supervision of a board-licensed massage therapist;

(3) A person administering a massage to members of the person's immediate family;

(4) Persons who restrict manipulation of the soft tissues of the human body to the hands, feet, or ears, and do not hold themselves out to be massage therapists;

(5) Persons who use procedures within the scope of practice of their profession, which has established standards and ethics, provided that their services use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged, but who are not designated or implied to administer massage or to be massage therapists. These practices include, but are not limited to, the Feldenkrais Method, polarity therapy, and the Trager Approach;

(6) Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to what is essential for palpation and affecting of the human energy system, provided that their services are not designated or implied to be massage or massage therapy;

(7) Persons duly licensed, certified, or registered in another state or territory, the District of Columbia, or a foreign country when incidentally in this state to provide service as a part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event;

(8) Students participating in massage therapy classes or continuing education while in the classroom or practicing on a classmate and not holding themselves out as massage therapists or accepting compensation for the practice; or

(9) Practitioners of the following occupations and professions regulated by state law while engaging in the practices for which they are duly licensed and while not holding themselves out to be massage therapists:

(a) Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS Chapter 311;

(b) Chiropractors regulated under KRS Chapter 312;

(c) Registered nurses and practical nurses regulated under KRS Chapter 314;

(d) Barbers and cosmetologists regulated under KRS Chapters 317 and 317A, respectively;

(e) Occupational therapists regulated under KRS Chapter 319A; and

(f) Physical therapists regulated under KRS Chapter 327.

SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

No person shall practice massage therapy or hold himself or herself out to be a massage therapist unless the person meets the educational and licensing requirements of Sections 9 and 11 of this Act and holds a valid license that has not been suspended or revoked.

(1) A licensed massage therapist may represent himself or herself as a massage therapist or licensed massage therapist and may use the abbreviations "M.T." or "L.M.T." as part of or immediately following his or her name to identify the profession.

(2) It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to practice massage or massage therapy or to use in connection with his, her, or its name or business activity the words "massage," "massage therapy," "massage therapist," "massage practitioner," "masseur," or "masseuse," or the letters "M.T." or "L.M.T.," or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless massage therapy is provided by a massage therapist licensed and practicing in accordance with Sections 1 to 16 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) There is created a board to be known as the Kentucky Board of Licensure for Massage Therapy, which shall be an independent agency attached to the Division of Occupations and Professions for administrative and clerical purposes.

(2) The Governor shall appoint seven (7) members to serve on the board with the following representation:

  (a) Five (5) members who are massage therapists licensed under Sections 1 to 16 of this Act, who have been in the practice of massage therapy for at least five (5) of the last seven (7) years prior to the effective date of this Act, and who are residents of Kentucky;

  (b) Of these five (5), at least one (1) but no more than two (2) shall own or direct a board-approved massage therapy training program; and

  (c) Two (2) members shall be appointed by the Governor and shall serve as members at large who are neither licensed massage therapists nor spouses of persons who are licensed, or have a direct or indirect interest in the profession regulated under Sections 1 to 16 of this Act. One (1) of the two (2) may hold a license in another health care profession.

(3) Appointments shall be for three (3) years with initial appointments as follows: three (3) appointees shall serve three (3) year terms; two (2) shall serve two (2) year terms; and two (2) shall serve one (1) year terms. The Governor shall assign terms to initial members at his or her discretion.

(4) The board shall elect initially, and annually thereafter, a chair, vice chair, and secretary from its membership and shall meet at least once per year, and more often as deemed necessary, at a time and at a place in Kentucky for the board to fulfill its duties.

(5) Each member of the board shall receive a per diem not to exceed one hundred dollars ($100) and other actual and necessary expenses for each day he or she is actually engaged in the discharge of the board's official duties.

(6) Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office.

SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of Sections 1 to 16 of this Act and shall have the responsibility to evaluate the qualifications of applicants for licensure and to authorize issuing, renewing, suspending, and revoking licenses.

(2) The board may institute civil and criminal proceedings against violators of Sections 1 to 16 of this Act, shall investigate alleged violations brought to its attention, and shall take appropriate action. The Attorney General, Commonwealth's attorneys, and county attorneys shall assist the board in prosecuting violations of Sections 1 to 16 of this Act.

(3) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to carry out and enforce provisions of Sections 1 to 16 of this Act, including creating a code of ethical standards, standards of practice for licensed massage therapists, and continuing education requirements.

(4) The board shall keep a record of its proceedings and a register of all persons licensed as massage therapists. The register shall include the name, license number and date of issue, last known place of business, and residence of each licensee. The board shall publish annually a directory of licensed massage therapists and their places of business. The list shall be available to any Kentucky citizen upon request and payment of a fee not to exceed the cost of the publication.

(5) The board shall make an annual report to the Governor and the General Assembly, which shall contain an account of its duties performed, actions taken, and appropriate recommendations.

(6) The board may seek an injunction in Franklin Circuit Court against any individual who practices massage therapy in the Commonwealth without a license.

SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 16 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general funds of this Commonwealth.

(3) The compensation of members of the board and all of the employees of the board and all expenses incurred by the board shall be paid from this revolving fund.

SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The following fees shall be required of licensees and prospective applicants:

(1) Application fee of fifty dollars ($50), which shall be credited to the initial license fee for successful applicants;

(2) Initial, nonrefundable license fee not to exceed one hundred twenty-five dollars ($125);

(3) Biennial renewal fees not to exceed one hundred dollars ($100);

(4) Late renewal fees not to exceed one hundred fifty dollars ($150); and

(5) Within sixty (60) days of the date of reinstatement, fees not to exceed two hundred dollars ($200).

SECTION 9. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Between the effective date of this Act and the date two (2) years following the effective date of this Act, the board shall issue an initial license as a massage therapist to an applicant who:

  (a) Is eighteen (18) years of age or older;

  (b) Has paid the application fee and other fees required by the board;

  (c) Is a person of good moral character;

  (d) Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the board; and

  (e) Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.

(2) On and after the date two (2) years following the effective date of this Act, the board may issue a license as a massage therapist to an applicant who:

  (a) Is eighteen (18) years of age or older;

  (b) Has paid the application fee and other fees required by the board; and

  (c) Is a person of good moral character.

  (d) Has successfully completed a course of study consisting of a minimum of six hundred (600) classroom hours of supervised instruction in a massage therapy training program approved by the board; and

  (e) Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.

SECTION 10. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The board may grant a license to any person who is licensed, certified, or registered in another state or country that has standards at least as stringent as those required by Section 9 of this Act. Applicants who are not from a state that has standards at least as stringent as those required by Section 9 of this Act may appeal to the board for a hearing to determine if their experience and education meet the criteria.

SECTION 11. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Between the effective date of this Act and the date two (2) years following the effctive date of this Act, the board shall issue a license to an applicant who meets the requirements of paragraphs (a), (b), and (c) of subsection (1) of Section 9 of this Act and one (1) of the following:

(1) Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the Kentucky State Board for Proprietary Education or its equivalent in other states;

(2) Has received the designation of "Nationally Certified" or "Internationally Certified" by the National Certification Board for Therapeutic Massage and Bodywork or other massage therapist certifying agency approved by the National Commission for Certifying Agencies;

(3) Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least seven (7) years prior to the effective date of this Act;

(4) Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least one (1) year and has completed two hundred (200) hours of formal training; or

(5) Holds a current and valid license, certificate, or registration in another state with substantially equivalent requirements.

SECTION 12. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

When renewing a license, each licensee shall document the successful completion of the required board-approved continuing education credits. Twenty-four (24) hours of training shall be required for each two (2) year renewal period. A maximum of twelve (12) additional hours may be carried over into the next renewal period. Courses may include ethics, business practices, science, and techniques related to massage therapy.

SECTION 13. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions when the licensee or applicant has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:

(a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;

(b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;

(c) Violating any lawful order or administrative regulation promulgated by the board;

(d) Violating any provision of this chapter;

(e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;

(f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner; or

(g) Evidence of gross negligence or gross incompetence in the practice of massage therapy.

(2) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.

(3) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under Sections 1 to 16 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) A person, institution, or business entity desiring to have the board determine the standing of a massage therapy program of instruction shall file a completed application for a certificate of good standing with the board on a form prescribed by the board. The completed application shall provide proof acceptable to the board that the following criteria have been met:

(a) The program is licensed to operate by the Kentucky State Board of Proprietary Education or its equivalent in another state;

(b) A curriculum statement showing clock hours devoted to each subject with the following minimums:

1. One hundred (100) hours of anatomy, physiology, or pathology;

2. A two hundred (200) hour course to include massage theory, technique, and practice focusing on gliding strokes, kneading, direct pressure, deep friction, joint mobilization, superficial warming techniques, percussion, compression, vibration, jostling, shaking, and rocking; and

3. Two hundred (200) hours of approach to the business of massage, specifically including contraindications, benefits, business, history, ethics, legalities of massage, and courses designed to meet the school's specific program objectives.

The board may use its discretion in allotting the additional one hundred (100) curricular hours that are required under Section 9 of this Act;

(c) A listing of instructional staff and their qualifications showing a minimum educational equivalent for each instructor and aide for licensure under Sections 1 to 16 of this Act, or proof of qualifying for issuance of a license under Section 10 of this Act. Instructors in the practical courses shall be required to have three (3) years of experience in the practice of massage therapy.

(2) The board shall accept National Certification Board for Therapeutic Massage and Bodywork guidelines in approving continuing education.

SECTION 15. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 16 of this Act supersede all ordinances or regulations regulating massage therapists in any city, county, urban-county, charter county, or consolidated local government.

(2) This article does not affect city, county, urban-county, charter county, or consolidated local government regulations relating to zoning requirements or occupational license fees pertaining to health care professions.

SECTION 16. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law to the contrary, the act of a duly licensed massage therapist in performing a massage shall be deemed the act of a health care professional and shall not be subject to the collection of any form of state or local taxation not also imposed on other professional health care activities.

The Committee Substitute to **HB 268** is as follows:

HB 268, AN ACT relating to licensing massage therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15 of this Act unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Licensure for Massage Therapy;

(2) "Board-approved massage program" means one which meets minimum standards for training and curriculum as determined by the board;

(3) "Feldenkrais Method" means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person's own functional movement patterns. The method is based on principles of physics, biomechanics and an understanding of, or learning about, human development. The practice is federally trademarked and requires permission from the Feldenkrais Guild to use the term and methodology;

(4) "Massage therapist" means a person who is licensed by the board to administer massage or massage therapy to the public for compensation;

(5) "Polarity therapy" means diverse applications affecting the human energy system. These applications include energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications. Standards for schools, education, and practice, the administration of a code of ethics, and a registration process are provided by the American Polarity Therapy Association;

(6) "Practice of massage therapy" means the application, by a massage therapist licensed by the board, of a system of structured touch, pressure, movement, and holding to the soft tissues of the human body with the intent to enhance or restore the health and well-being of the client. The practice includes the external application of water, heat, cold, lubricants, salt scrubs, or other topical preparations; use of electromechanical devices that mimic or enhance the actions of the hands; and determination of whether massage therapy is appropriate or contraindicated, or whether referral to another health care practitioner is appropriate; and

(7) "Trager Approach" means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager Approach combines physical movement with sensory awareness and internal imagery designed to increase the client's self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body. The practice is federally trademarked.

SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Massage therapists practicing under Sections 1 to 15 of this Act shall not perform any of the following: diagnosis of illness or disease; high-velocity, low-amplitude thrust applied to a joint; spinal or pelvic adjustment or chiropractic manipulation; deep physical agent modalities, except hydrotherapy methods; application of ultrasound; or prescription of medication.

SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 15 of this Act shall not preclude:

(1) Persons duly licensed, registered, or certified as massage therapists in another state or territory, the District of Columbia, or a foreign country when invited to this state to teach a course related to massage therapy or to consult with a person licensed under Sections 1 to 15 of this Act;

(2) Students practicing massage therapy while enrolled in a program recognized by the board and completing a clinical requirement for graduation while under the supervision of a board-licensed massage therapist;

(3) A person administering a massage to members of the person's immediate family;

(4) Persons who restrict manipulation of the soft tissues of the human body to the hands, feet, or ears, and do not hold themselves out to be massage therapists;

(5) Persons who use procedures within the scope of practice of their profession, which has established standards and ethics, provided that their services use touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement while engaged, but who are not designated or implied to administer massage or to be massage therapists. These practices include, but are not limited to, the Feldenkrais Method, polarity therapy, and the Trager Approach;

(6) Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is

limited to what is essential for palpation and affecting of the human energy system, provided that their services are not designated or implied to be massage or massage therapy;

(7) Persons duly licensed, certified, or registered in another state or territory, the District of Columbia, or a foreign country when incidentally in this state to provide service as a part of an emergency response team working in conjunction with disaster relief officials or as part of a charity event;

(8) Students participating in massage therapy classes or continuing education while in the classroom or practicing on a classmate and not holding themselves out as massage therapists or accepting compensation for the practice; or

(9) Practitioners of the following occupations and professions regulated by state law while engaging in the practices for which they are duly licensed and while not holding themselves out to be massage therapists:

  (a) Physicians, osteopaths, podiatrists, and athletic trainers regulated under KRS Chapter 311;

  (b) Chiropractors regulated under KRS Chapter 312;

  (c) Registered nurses and practical nurses regulated under KRS Chapter 314;

  (d) Barbers and cosmetologists regulated under KRS Chapters 317 and 317A, respectively;

  (e) Occupational therapists regulated under KRS Chapter 319A; and

  (f) Physical therapists regulated under KRS Chapter 327.

SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

No person shall practice massage therapy or hold himself or herself out to be a massage therapist unless the person meets the educational and licensing requirements of Sections 9 and 11 of this Act and holds a valid license that has not been suspended or revoked.

(1) A licensed massage therapist may represent himself or herself as a massage therapist or licensed massage therapist and may use the abbreviations "M.T." or "L.M.T." as part of or immediately following his or her name to identify the profession.

(2) It shall be unlawful for any person, or for any business entity, its employees, agents, or representatives to practice massage or massage therapy or to use in connection with his, her, or its name or business activity the words "massage," "massage therapy," "massage therapist," "massage practitioner," "masseur," or "masseuse," or the letters "M.T." or "L.M.T.," or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless massage therapy is provided by a massage therapist licensed and practicing in accordance with Sections 1 to 15 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) There is created a board to be known as the Kentucky Board of Licensure for Massage Therapy, which shall be an independent agency attached to the Division of Occupations and Professions for administrative and clerical purposes.

(2) The Governor shall appoint seven (7) members to serve on the board with the following representation:

  (a) Five (5) members who are massage therapists licensed under Sections 1 to 15 of this Act, who have been in the practice of massage therapy for at least five (5) of the last seven (7) years prior to the effective date of this Act, and who are residents of Kentucky;

  (b) Of these five (5), at least one (1) but no more than two (2) shall own or direct a board-approved massage therapy training program; and

  (c) Two (2) members shall be appointed by the Governor and shall serve as members at large who are neither licensed massage therapists nor spouses of persons who are licensed, or have a direct or indirect interest in the profession regulated under Sections 1 to 15 of this Act. One (1) of the two (2) may hold a license in another health care profession.

(3) Appointments shall be for three (3) years with initial appointments as follows: three (3) appointees shall serve three (3) year terms; two (2) shall serve two (2) year terms; and two (2) shall serve one (1) year terms. The Governor shall assign terms to initial members at his or her discretion.

(4) The board shall elect initially, and annually thereafter, a chair, vice chair, and secretary from its membership and shall meet at least once per year, and more often as deemed necessary, at a time and at a place in Kentucky for the board to fulfill its duties.

(5) Each member of the board shall receive a per diem not to exceed one hundred dollars ($100) and other actual and necessary expenses for each day he or she is actually engaged in the discharge of the board's official duties.

(6) Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office.

SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of Sections 1 to 15 of this Act and shall have the responsibility to evaluate the qualifications of applicants for licensure and to authorize issuing, renewing, suspending, and revoking licenses.

(2) The board may institute civil and criminal proceedings against violators of Sections 1 to 15 of this Act, shall investigate alleged violations brought to its attention, and shall take appropriate action. The Attorney General, Commonwealth's attorneys, and county attorneys shall assist the board in prosecuting violations of Sections 1 to 15 of this Act.

(3) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to carry out and enforce provisions of Sections 1 to 15 of this Act, including creating a code of ethical standards, standards of practice for licensed massage therapists, and continuing education requirements.

(4) The board shall keep a record of its proceedings and a register of all persons licensed as massage therapists. The register shall include the name, license number and date of issue, last known place of business, and residence of each licensee. The board shall publish annually a directory of licensed massage therapists and their places of business. The list shall be available to any Kentucky citizen upon request and payment of a fee not to exceed the cost of the publication.

(5) The board shall make an annual report to the Governor and the General Assembly, which shall contain an account of its duties performed, actions taken, and appropriate recommendations.

(6) The board may seek an injunction in Franklin Circuit Court against any individual who practices massage therapy in the Commonwealth without a license.

SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board pursuant to the provisions of Sections 1 to 15 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general funds of this Commonwealth.

(3) The compensation of members of the board and all of the employees of the board and all expenses incurred by the board shall be paid from this revolving fund.

SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The following fees shall be required of licensees and prospective applicants:

(1) Application fee of fifty dollars ($50), which shall be credited to the initial license fee for successful applicants;

(2) Initial, nonrefundable license fee not to exceed one hundred twenty-five dollars ($125);

(3) Biennial renewal fees not to exceed one hundred dollars ($100);

(4) Late renewal fees not to exceed one hundred fifty dollars ($150); and

(5) Within sixty (60) days of the date of reinstatement, fees not to exceed two hundred dollars ($200).

SECTION 9. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Between the effective date of this Act and the date two (2) years following the effective date of this Act, the board shall issue an initial license as a massage therapist to an applicant who:

  (a) Is eighteen (18) years of age or older;

  (b) Has paid the application fee and other fees required by the board;

  (c) Is a person of good moral character;

  (d) Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the board; and

  (e) Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.

(2) On and after the date two (2) years following the effective date of this Act, the board may issue a license as a massage therapist to an applicant who:

  (a) Is eighteen (18) years of age or older;

  (b) Has paid the application fee and other fees required by the board;

  (c) Is a person of good moral character;

  (d) Has successfully completed a course of study consisting of a minimum of six hundred (600) classroom hours of supervised instruction in a massage therapy training program approved by the board; and

  (e) Has successfully passed an examination administered by a certifying agency that has been approved by the National Commission for Certifying Agencies.

SECTION 10. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

The board may grant a license to any person who is licensed, certified, or registered in another state or country that has standards at least as stringent as those required by Section 9 of this Act. Applicants who are not from a state that has standards at least as stringent as those required by Section 9 of this Act may appeal to the board for a hearing to determine if their experience and education meet the criteria.

SECTION 11. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Between the effective date of this Act and the date two (2) years following the effective date of this Act, the board shall issue a *license to an applicant who meets the requirements of paragraphs (a), (b), and (c) of subsection (1) of Section 9 of this Act and one (1) of the following:*

(1) Has successfully completed a course of study consisting of a minimum of five hundred (500) classroom hours of supervised instruction in a massage therapy training program approved by the Kentucky State Board for Proprietary Education or its equivalent in other states;

(2) Has received the designation of "Nationally Certified" or "Internationally Certified" by the National Certification Board for Therapeutic Massage and Bodywork or other massage therapist certifying agency approved by the National Commission for Certifying Agencies;

(3) Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least seven (7) years prior to the effective date of this Act;

(4) Has provided documentation satisfactory to the board that the applicant has practiced massage therapy for at least one (1) year and has completed two hundred (200) hours of formal training; or

(5) Holds a current and valid license, certificate, or registration in another state with substantially equivalent requirements.

SECTION 12. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

When renewing a license, each licensee shall document the successful completion of the required board-approved continuing education credits. Twenty-four (24) hours of training shall be required for each two (2) year renewal period. A maximum of twelve (12) additional hours may be carried over into the next renewal period. Courses may include ethics, business practices, science, and techniques related to massage therapy.

SECTION 13. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board may deny or refuse to renew a license, may suspend or revoke a license, may issue an administrative reprimand, or may impose probationary conditions when the licensee or applicant has engaged in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include the following:

(a) Obtaining or attempting to obtain a license by fraud, misrepresentation, concealment of material facts, or making a false statement to the board;

(b) Being convicted of a felony in any court if the act or acts for which the licensee or applicant for license was convicted are determined by the board to have a direct bearing on whether the person is trustworthy to serve the public as a licensed massage therapist. "Conviction," as used in this paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere in a court of law;

(c) Violating any lawful order or administrative regulation promulgated by the board;

(d) Violating any provision of this chapter;

(e) Having sexual contact as defined by KRS 510.010(7) with a client or having engaged or attempted to engage in lewd or immoral conduct with any client or patient;

(f) Engaging in fraud or material deception in the delivery of professional services, including reimbursement or advertising services, in a false or misleading manner; or

(g) Evidence of gross negligence or gross incompetence in the practice of massage therapy.

(2) The board may, at its discretion, deny, refuse to renew, suspend or revoke a license, or impose probationary conditions following an administrative hearing pursuant to KRS Chapter 13B and in accordance with administrative regulations promulgated by the board.

(3) The surrender of a license shall not deprive the board of jurisdiction to proceed with disciplinary actions under Sections 1 to 15 of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) A person, institution, or business entity desiring to have the board determine the standing of a massage therapy program of instruction shall file a completed application for a certificate of good standing with the board on a form prescribed by the board. The completed application shall provide proof acceptable to the board that the following criteria have been met:

(a) The program is licensed to operate by the Kentucky State Board of Proprietary Education or its equivalent in another state;

(b) A curriculum statement showing clock hours devoted to each subject with the following minimums:

1. One hundred (100) hours of anatomy, physiology, or pathology;

2. A two hundred (200) hour course to include massage theory, technique, and practice focusing on gliding strokes, kneading, direct pressure, deep friction, joint mobilization, superficial warming techniques, percussion, compression, vibration, jostling, shaking, and rocking; and

3. Two hundred (200) hours of approach to the business of massage, specifically including contraindications, benefits, business, history, ethics, legalities of massage, and courses designed to meet *the school's specific program objectives.*

The board may use its discretion in allotting the additional one hundred (100) curricular hours that are required under Section 9 of this Act;

(c) A listing of instructional staff and their qualifications showing a minimum educational equivalent for each instructor and aide for licensure under Sections 1 to 15 of this Act, or proof of qualifying for issuance of a license under Section 10 of this Act. Instructors in the practical courses shall be required to have three (3) years of experience in the practice of massage therapy.

(2) The board shall accept National Certification Board for Therapeutic Massage and Bodywork guidelines in approving continuing education.

SECTION 15. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 15 of this Act supersede all ordinances or regulations regulating massage therapists in any city, county, urban-county, charter county, or consolidated local government.

(2) This article does not affect city, county, urban-county, charter county, or consolidated local government regulations relating to zoning requirements or occupational license fees pertaining to health care professions.

HB 365, AN ACT relating to the service of distilled spirits and wine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.050 is amended to read as follows:

(1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.156, 243.157, and subsection (2) of this section.

(2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7)*, (8),* or (27) may, after acquiring a license under KRS 243.030(41), allow customers to sample distilled spirits and wine under the following conditions:

(a) Sampling shall be permitted only on licensed premises and, for retailers licensed under KRS 243.030*(8) or* (27), during regular business hours;

(b) A licensee shall not charge for the samples provided to customers;

(c) Sample sizes shall not exceed:

1. One (1) ounce for wine; and

2. One-half (1/2) ounce for distilled spirits; and

(d) A licensee shall limit a customer to:

1. Two (2) distilled spirits samples per day; and

2. Six (6) wine samples per day.

(3) Retailers licensed under KRS 243.030(7) *or (8)* shall:

(a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event; and

(b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

HB 366, AN ACT relating to souvenir retail liquor licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.0305 is amended to read as follows:

(1) A souvenir retail liquor license may be issued to any licensed Kentucky distiller that has a gift shop or other retail outlet on its premises, if the distillery is located in wet territory. The application shall be made on forms provided by the board.

(2) A wholesaler registered to distribute the brands of any distiller holding a souvenir retail license may permit the distiller to deliver a souvenir package directly from the distillery proper to the portion of the distillery premises operated by the licensee for the sale of souvenir packages. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the souvenir package licensee, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.

(3) A distiller who has obtained a souvenir retail license may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of *six (6)*[~~three (3)~~] liters per visitor per day*, with the exception of a purchase by a partnership, limited liability partnership, corporation, limited liability company, or other business entity holding an event on the premises of the distillery, in which case the limitation shall be one (1) liter per visitor attending the event*. These sales shall be permitted only through the gift shop or other retail outlet on the distiller's premises.

(4) Hours of sale for a souvenir retail liquor licensee shall be 9 a.m. until 9 p.m. prevailing time Monday through Saturday.

The licensed premises may remain open if they have a separate department pursuant to KRS 244.290(1).

(5) Except as provided in this section, souvenir retail liquor licenses shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.

(6) No wholesaler may restrict the sale of souvenir packages to the souvenir retail liquor licensee exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.

The Committee Amendment No. 1 to **HB 366** is as follows:

HB 366, On page 1, line 15, by deleting "*six (6)*" and removing brackets and strikethrough from "three (3)".

The Committee on Judiciary reported **HB 263** and **HB 265,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 263, AN ACT relating to the Kentucky Rules of Evidence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRE 412 is amended to read as follows:

(a) ***Evidence generally inadmissible***~~[Reputation or opinion]~~. ***The following evidence***~~[Notwithstanding any other provision of law, in a criminal prosecution under KRS Chapter 510 or for attempt or conspiracy to commit an offense defined in KRS Chapter 510, or KRS 530.020, reputation or opinion evidence related to the sexual behavior of an alleged victim]~~ is not admissible ***in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):***

(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior; and

(2) Evidence offered to prove any alleged victim's sexual predisposition.

(b) ***Exceptions***~~[Particular acts and other evidence. Notwithstanding any other provision of law, in a criminal prosecution under KRS Chapter 510, or KRS 530.020, or for attempt or conspiracy to commit an offense defined in KRS Chapter 510, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence is admitted in accordance with subdivision (c) and is]~~:

(1) ***In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:***

(A) Evidence of ***specific instances of***~~[past]~~ sexual behavior ***by the alleged victim offered to prove that a person***~~[with persons]~~ other than the accused~~[, offered by the accused upon the issue of whether the accused]~~ was~~[or was not, with respect to the alleged victim,]~~ the source of semen,~~[or]~~ injury***, or other physical evidence***;

(B) Evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

(C) Any other evidence directly pertaining to the offense charged.

(2) ***In a civil case,*** evidence ***offered to prove the***~~[of past]~~ sexual behavior ***or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the***~~[with the accused and is offered by the accused upon the issue of whether the]~~ alleged victim~~[consented to the sexual behavior with respect to which an offense is alleged; or~~

~~(3) Any other evidence directly pertaining to the offense charged]~~.

(c) ***Procedure to determine admissibility.***

(1) ***A party intending to offer evidence under subdivision (b) must:***

(A) File a written motion at least fourteen (14) days before trial specifically describing the evidence and stating the purpose for which it~~[Motion to offer evidence. If the person accused of committing an offense described above intends to offer under subdivision (b) evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than fifteen (15) days before the date on which the trial in which such evidence]~~ is~~[to be]~~ offered ***unless***~~[is scheduled to begin, except that]~~ the court***, for good cause, requires a different time for filing or permits filing***~~[may allow the motion to be made at a later date, including]~~ during trial***; and***

(B) Serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative~~[, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case]~~.

(2) ***Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim***

and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise[~~Hearing on motion. The motion described in the preceding paragraph shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subdivision (b), the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. Notwithstanding subdivision (b) of KRE 104, if the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.~~

~~(3) Findings and order. If the court determines on the basis of the hearing described in the preceding paragraph that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.~~

~~(d) Definition. For purposes of this rule, the term "past sexual behavior" means sexual behavior other than the sexual behavior with respect to which the offense being tried is alleged to have occurred~~].

Section 2. KRE 608 is amended to read as follows:

(a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to ***these limitations:***

(1) [~~the limitation that~~]The evidence may refer only to ***character for truthfulness or untruthfulness; and***

(2) Evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise[~~general reputation in the community~~].

(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in KRE 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness:

(1) Concerning the witness' character for truthfulness or untruthfulness; or

(2) Concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

No specific instance of conduct of a witness may be the subject of inquiry under this provision unless the cross-examiner has a factual basis for the subject matter of his inquiry.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters which relate only to credibility.

HB 265, AN ACT relating to nuclear transplantation.

WHEREAS, it is the intent of the General Assembly to prohibit human cloning with the intent to create a child, without impeding important areas of medical research, including but not limited to stem cell and nuclear transplantation research; and

WHEREAS, human cloning with the intent to create a child is unsafe and unacceptable; and

WHEREAS, any attempt to engage in human cloning with the intent to create a child should be subject to severe punishment;

WHEREAS, nuclear transplantation has great potential to increase the understanding and potential treatment of various debilitating diseases and disorders, including but not limited to Lou Gehrig's disease, Parkinson's disease, Alzheimer's disease, spinal-cord injury, cancer, cardiovascular diseases, diabetes, rheumatoid arthritis, and many others; and

WHEREAS, nuclear transplantation and stem cell research are valuable areas of research that may save millions of lives and relieve the suffering of countless others; and

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context otherwise requires:

(1) "Human cloning with the intent to create a child" means implanting or attempting to implant the product of nuclear transplantation into a uterus with the intent to initiate a pregnancy;

(2) "Human somatic cell" means any human cell other than an oocyte or sperm cell;

(3) "Nuclear transplantation" means a procedure for transferring the nucleus of a human somatic cell into an oocyte from which the nuclear chromosomes have been removed or rendered inert;

(4) "Nucleus" means the cell structure that contains the chromosomes; and

(5) "Oocyte" means the female germ cell, sometimes referred to as "the egg."

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) No person or other entity, public or private, shall intentionally:

(a) Conduct or attempt to conduct human cloning with the intent to create a child; or

(b) Transport or cause the transportation of the product of nuclear transplantation into, out of, or within the Commonwealth of Kentucky for the purpose of human cloning with the intent to create a child.

(2) Violation of subsection (1) of this section is a Class C felony.

(3) Nothing in this section shall be construed to prohibit or restrict medical research that is not expressly prohibited in this section.

(4) As used in this section, "intentionally" has the same meaning as it does in KRS 501.020.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Any person or other entity, public or private, that engages in human nuclear transplantation shall register with the secretary of the Cabinet for Health Services not less than thirty (30) days prior to engaging in human nuclear transplantation.

(2) The information provided to the cabinet shall be limited to:

(a) The name of the person or entity engaging in the human nuclear transplantation;

(b) The address of the person or entity engaging in the human nuclear transplantation;

(c) The telephone number of the person or entity engaging in the human nuclear transplantation; and

(d) The fact that the person or entity is engaging in human nuclear transplantation.

(3) The registration shall be accompanied by a fee of fifty dollars ($50), and shall be renewed annually, on or before the date of the previous registration, if the person or entity continues to engage in human nuclear transplantation.

(4) Information provided under this section shall be a public record.

(5) The Cabinet for Health Services shall require no additional information and shall not promulgate administrative regulations relating to this section.

(6) If an individual engages in human nuclear transplantation as an employee of, or under the control of an entity, public or private, that is registered under this section, that individual shall not be required to register separately or be identified to the cabinet.

(7) Failure of a person or other entity, public or private, to register as required by this section shall be a Class D felony.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Each institution of public postsecondary education in the Commonwealth shall have a binding, written policy protecting the interest of the Commonwealth or the institution relating to all intellectual property and other rights to any research, experiments, or other activity relating to human nuclear transplantation which is engaged in by students, faculty, employees, contractors, agents, or others associated with the institution.

The Committee Substitute to **HB 265** is as follows:

HB 265, AN ACT relating to nuclear transplantation.

WHEREAS, it is the intent of the General Assembly to prohibit human cloning with the intent to create a child, without impeding important areas of medical research, including but not limited to stem cell and nuclear transplantation research; and

WHEREAS, human cloning with the intent to create a child is unsafe and unacceptable; and

WHEREAS, any attempt to engage in human cloning with the intent to create a child should be subject to severe punishment; and

WHEREAS, nuclear transplantation has great potential to increase the understanding and potential treatment of various debilitating diseases and disorders, including but not limited to Lou Gehrig's disease, Parkinson's disease, Alzheimer's disease, spinal-cord injury, cancer, cardiovascular diseases, diabetes, rheumatoid arthritis, and many others; and

WHEREAS, nuclear transplantation and stem cell research are valuable areas of research that may save millions of lives and relieve the suffering of countless others;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context otherwise requires:

(1) "Human cloning with the intent to create a child" means implanting or attempting to implant the product of nuclear transplantation into a uterus;

(2) "Human somatic cell" means any human cell other than an oocyte or sperm cell;

(3) "Nuclear transplantation" means a procedure for transferring the nucleus of a human somatic cell into an oocyte from which the nuclear chromosomes have been removed or rendered inert;

(4) "Nucleus" means the cell structure that contains the chromosomes; and

(5) "Oocyte" means the female germ cell, sometimes referred to as "the egg."

SECTION 2. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) No person or other entity, public or private, shall intentionally:

(a) Conduct or attempt to conduct human cloning with the intent to create a child; or

(b) Transport or cause the transportation of the product of nuclear transplantation into, out of, or within the Commonwealth of Kentucky for the purpose of human cloning with the intent to create a child.

(2) Violation of subsection (1) of this section is a Class C felony.

(3) Nothing in this section shall be construed to prohibit or restrict medical research that is not expressly prohibited in this section.

(4) As used in this section, "intentionally" has the same meaning as it does in KRS 501.020.

SECTION 3. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) Any person or other entity, public or private, that engages in human nuclear transplantation shall register with the secretary of the Cabinet for Health Services not less than thirty (30) days prior to engaging in human nuclear transplantation.

(2) The information provided to the cabinet shall be limited to:

(a) The name of the person or entity engaging in the human nuclear transplantation;

(b) The address of the person or entity engaging in the human nuclear transplantation;

(c) The telephone number of the person or entity engaging in the human nuclear transplantation; and

(d) The fact that the person or entity is engaging in human nuclear transplantation.

(3) The registration shall be accompanied by a fee of fifty dollars ($50), and shall be renewed annually, on or before the date of the previous registration, if the person or entity continues to engage in human nuclear transplantation.

(4) Information provided under this section shall be a public record.

(5) The Cabinet for Health Services shall require no additional information and shall not promulgate administrative regulations relating to this section.

(6) If an individual engages in human nuclear transplantation as an employee of, or under the control of an entity, public or private, that is registered under this section, that individual shall not be required to register separately or be identified to the cabinet.

(7) Failure of a person or other entity, public or private, to register as required by this section shall be a Class D felony.

Calendar

HB 35, 237, 242, 295, 309, 334, 346, 115, 171, 221, 228, 4, 6, 24, 42, 53, 61, 81, 95, 163, 296, 317, and **HCR 4** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended for a Rules Committee meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committee

The Committee on Rules reported that **HB 4, 6, 24, 42, 53, 81, 237, 242, 295, 296, 317, 334, 154, 219, HJR 3, 7, 25, 55, 64, HB 28, 67, 75, 140, 145, 223,** and **HCR 20** have been posted for passage in the Orders of the Day for February 13, 2003.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 35**

Representative Thomas moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 27**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and congratulates the talented members of the Western Kentucky University Hilltoppers Football Team 2002 NCAA Division I-AA National Champions for phenomenal skill and perseverance which resulted in this extraordinary group of athletes finishing the season with an overall record of 12-3; enjoying a winning streak of 10 consecutive victories; earning numerous individual honors for many members of their celebrated team; and, winning their first NCAA Division I-AA National Football Championship title. Inasmuch as this championship team, under the skilled tutelage of Head Coach Jack Harbaugh, the AFCA National Coach of the Year, has demonstrated remarkable talent and dedication to the sport of football and, as a result, has brought great honor to their school, their community, and to this fine Commonwealth, Speaker Jody Richards, enthusiastically joined by Representative Roger Thomas and Representative Rob Wilkey, along with the others members of this esteemed body, hereby applauds the achievements of the Western Kentucky University Hilltoppers Football Team and strongly believes this stellar team should be recognized by the construction of a sign on I-65 on each side of Bowling Green, stating, "Welcome to Bowling Green, Home of Western Kentucky University's 2002 NCAA Division I-AA National Champion Football Team." Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and three.

Legislative Citation No. 27 was adopted without objection.

Representative Ford moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 24**.

The House of Representatives of the Commonwealth of Kentucky hereby expresses congratulations to the esteemed members of Leadership Kentucky Association of Realtors and welcomes these distinguished individuals as they visit the chambers of the Kentucky House of Representatives to view a day of the Regular Session of the 2003 General Assembly. Inasmuch as participation in this leadership program, sponsored by one of the largest professional trade associations in the Commonwealth of Kentucky, seeks to identify, train, and cultivate future leaders for the local, state, and national Realtor organizations, this honorable body is pleased to join Representative Dwight Butler, Representative Hubert Collins, Representative Danny Ford, Representative Jim Gooch, Representative Charlie Hoffman, Representative Lonnie Napier, Representative Fred Nesler, and Representative Jon David Reinhardt in commending these most recent members of Leadership KAR upon being selected to participate in this prestigious leadership program. Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and three.

Legislative Citation No. 24 was adopted without objection.

Orders of the Day

HCR 56, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of Floor Amendment No. 1 to **HCR 56**. Agreed.

Representative Weaver moved that **HCR 56**, as amended, be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 12, 2003, roll call on **HCR 56** - Appendix.)

HCR 56, as amended, was adopted and the title agreed to.

Representative Weaver moved that the vote by which **HCR 56**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 63, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of Floor Amendment No. 1 to **HB 63**. Agreed.

Representative Weaver moved the adoption of Floor Amendment No. 2 to **HB 63**. Agreed.

Representative Weaver moved the adoption of Floor Amendment No. 3 to **HB 63**. Agreed.

Representative Weaver moved that **HB 63**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 12, 2003, roll call on **HB 63** - Appendix.)

HB 63, as amended, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 63**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 66 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 66** be passed.

On the roll call the vote was: **Yeas 90, Nays 4**. (See February 12, 2003, roll call on **HB 66** - Appendix.)

HB 66 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 68 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 68** be passed.

On the roll call the vote was: **Yeas 87, Nays 8**. (See February 12, 2003, roll call on **HB 68** - Appendix.)

HB 68 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 68** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 71 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 71** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 12, 2003, roll call on **HB 71** - Appendix.)

HB 71 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 71** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 73 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 73** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 12, 2003, roll call on **HB 73** - Appendix.)

HB 73 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 73** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 77, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 77**. Agreed.

Representative Feeley moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 77**.

Representative Gooch inquired whether Floor Amendment No. 4 required a local fiscal impact statement.

The Speaker ruled that under the House Rules a fiscal impact statement was not required, however a sponsor may request a fiscal impact statement.

Representative Gooch moved to attach a local fiscal impact statement to Floor Amendment No. 4 to the Committee Substitute to **HB 77**.

Representative Lindsay inquired whether Representative Gooch intended the local fiscal impact statement be on Floor Amendment No. 4 or on **HB 77**.

Representative Gooch stated that the motion applies to **HB 77**.

Representative Feeley stated that Representative Gooch's motion that a local fiscal impact statement be attached to Floor Amendment No. 4 to the Committee Substitute to **HB 77** was made after the motion to adopt said Amendment.

Representative Feeley moved that the House proceed with the vote on Floor Amendment No. 4 and then have a discussion on **HB 77**.

Representative Gooch moved that a fiscal impact statement be attached to **HB 77**.

On the roll call for the motion to attach a fiscal impact statement, the vote was: **Yeas 33, Nays 61**. (See February 12, 2003, roll call to attach a fiscal impact statement to **HB 77** - Appendix.)

The vote to attach a fiscal impact statement to **HB 77**, was defeated.

Representative Feeley moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 77**.

On the roll call to adopt Floor Amendment No. 4 to the Committee Substitute to **HB 77** the vote was: **Yeas 68, Nays 30**. (See February 12, 2003, roll call to adopt Floor Amendment No. 4 to **HB 77** - Appendix.)

Representative Burch moved that **HB 77**, by way of Committee Substitute, as amended, be passed.

Representative Upchurch inquired whether a three-fifths vote is required to pass **HB 77**.

The Speaker ruled a three-fifths vote is not required.

On the roll call the vote was: **Yeas 63, Nays 35**. (See February 12, 2003, roll call on **HB 77** - Appendix.)

HB 77, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 77**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 232 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 232** be passed.

On the roll call the vote was: **Yeas 93, Nays 2**. (See February 12, 2003, roll call on **HB 232** - Appendix.)

HB 232 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 232** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved to waive the posting requirement on **HCR 122, HB 469, 403, 406, 427, 297,** and **384**. Agreed.

Representative Stumbo moved that **HB 415** be reassigned to the Committee on Judiciary. Agreed.

Representative Stumbo moved that **HB 459** be reassigned to the Committee on Licensing and Occupations. Agreed.

Representative Stumbo moved that **HB 419** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 477, by Representative Fischer: AN ACT relating to cremation.

HB 478, by Representatives Fischer, Walton, Marcotte, Draud, and Reinhardt: AN ACT relating to vehicle emissions testing.

HB 479, by Representative Stumbo: AN ACT relating to insurance rates.

HB 480, by Representative Marzian: AN ACT relating to wages and hours.

HB 481, by Representatives Richards and DeWeese: AN ACT relating to regulation of athletic agents.

HB 482, by Representative Stein: AN ACT relating to unlawful possession of a weapon on school property.

HB 483, by Representative Bather: AN ACT relating to relating to the protection of a person's right to petition government and to speak freely.

HJR 134, by Representative Fischer: A JOINT RESOLUTION directing the Natural Resources and Environmental Protection Cabinet to end the Northern Kentucky Emissions Check program.

HCR 135, by Representative Stumbo: A CONCURRENT RESOLUTION creating a task force to study prescription drug abuse and the illegal diversion of prescription drugs in the Commonwealth and declaring an emergency.

HCR 136, by Representatives Pasley, Belcher, Bratcher, J. Arnold, P. Clark, Meeks, Pullin, Damron, Brinkman, and Webb: A CONCURRENT RESOLUTION extending the reporting deadline for the Off-road Motorcycle and All-terrain Vehicle Task Force.

HCR 137, by Representatives McKee, A. Arnold, Hoffman, Barrows, Pasley, Denham, and Thomas: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Agriculture and natural Resources to study the issue of farm land use in Kentucky.

HCR 138, by Representatives Buckingham, Haydon, Ballard, and Nelson: A CONCURRENT RESOLUTION encouraging state government agencies to more widely deploy electronic government services to benefit citizens and businesses of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill and Resolution have been posted for Committee consideration:

Tourism Development and Energy: **HCR 113**

Banking and Insurance: **HB 393**

Motions, Petitions, and Communications (Continued)

Representative Gray moved the adoption of the following **Legislative Citation No. 23**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Jane Bruce upon the auspicious occasion of her Birthday In celebration of this memorable event, the entire membership is delighted to join Representative J.R. Gray in commending Mrs. Bruce for a life lived to the fullest and for the vitality of heart which has brought her thus far. The cherished wife of our esteemed colleague, Representative Jim Bruce, this kind and generous citizen has earned the much-deserved admiration and respect of this honorable body and those who have had the good fortune of knowing her for her gracious and unparalleled efforts to support the legislative process within this Commonwealth and selflessly undertaking any task necessary while working in stewardship towards the common good. In recognition of the many contributions she has made on behalf of her family, community and the Commonwealth of Kentucky, this distinguished body hereby affords sincere gratitude to Jane Bruce and extends best wishes to this highly-regarded recipient on the meaningful occasion of her birthday. Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and three.

Legislative Citation No. 23 was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 25**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Dr. N.R. Harkleroad of Russellville, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Harkleroad Family and all who share in the profound loss on the passing of this fine and esteemed citizen. Born in Johnson City, Tennessee, the cherished son of the late Alvin and Beulah Stone Harkleroad, he is survived by his beloved wife, Pat Harkleroad; daughter, Kim Reeves; sons, Rodney Harkleroad and Dr. Todd Harkleroad; brothers, Dwayne Harkleroad and Jerry Harkleroad; one grandchild and two step-grandchildren; and a host of other family members and friends. Dr. Harkleroad served the community as a chiropractor and held membership in the American Chiropractic Association and the Kentucky Association of Chiropractors. Active in the community, he was a member of Post Oak Baptist Church, the Masonic Lodge #17 F&AM, the York Rite Bodies, the Logan County Shrine Club, and was a Rizpah Loonie with the Rizpah Shrine Headquarters in Madisonville, Kentucky. Dr. N.R. Harkleroad will be deeply missed by all those whose lives were touched by his remarkable presence and he is remembered on this day for his many and generous contributions to his family, his community, and this great Commonwealth. Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and three.

Legislative Citation No. 25 was adopted without objection.

Senate Message

Announcing passage of **SB 17** and **SB 37**. (Time: 4:25 p.m.)

Motions, Petitions, and Communications (Continued)

Representative Weaver moved to withdraw **HB 47**. Agreed.

Representative Weaver moved to withdraw **HB 62**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 63, 66,** and **68**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "nay" on **HB 88**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 194**. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 219**, by Representative Crimm:

HB 219, On page 3, line 7, after "***licensee.***", by inserting: "***Notwithstanding any other provision of this section, a temporary sale or display authorized and sponsored by a federal or state regulated credit union, in association with a licensee, shall be permitted unless prohibited by federal or state law.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 61**, by Representative Yonts:

HB 61, On page 5, line 14, after the first occurrance of the word "***in***" by deleting the word "***a***" and inserting the words "***an elected***".

Floor Amendment No. 1 to the Committee Substitute to **HB 242**, by Representative Baugh:

HB 242, On page 15, line 2, delete "*(1)*"; and
On page 15, delete lines 12 to 17 in their entirety.

Floor Amendment No. 2 to the Committee Substitute to **HB 242**, by Representative Baugh:

HB 242, On page 25, delete lines 16 to 21 in their entirety.

Floor Amendment No. 3 to the Committee Substitute to **HB 219**, by Representative Gooch:

HB 219, On page 3, line 6, after the word "***nature***" by inserting a period "***.***", and by deleting the remainder of the line; and
On page 3, by deleting line 7 in its entirety.

Floor Amendment No. 4 to the Committee Substitute to **HB 219**, by Representative Gooch:

HB 219, On page 3, lines 2 and 3, by deleting the phrase "***is permitted under an enabling***" and insert in lieu thereof "***does not violate any***".

Floor Amendment No. 1 to **HB 296**, by Representative Wayne:

HB 296, On page 1, line 17, by deleting the words "***personal services***"; and

On page 16, line 22, by deleting the words "***appropriated for the project***" and insert in lieu thereof the words "***identified in the request for proposal***".

Floor Amendment No. 1 to **HB 112**, by Representative Burch:

HB 112, On page 1, by deleting lines 20 through 22 in their entirety.

Floor Amendment No. 1 to **HB 251**, by Representative Ford:

HB 251, On page 9, line 13, after "***Act***" by inserting "***who does not hold a license from a licensing authority***"; and

On page 9, line 20, after "***(b)***" by deleting the remainder of the line; and

On page 9, by deleting lines 21 and 22 in their entirety; and

On page 9, line 23, by deleting "***substantially the same information required by this section.***".

Floor Amendment No. 3 to **HB 389**, by Representative Haydon:

HB 389, On page 5, line 11, after "***approvals.***" by inserting the following:

> "***The number of live racing days awarded to a host track for quarter horse racing shall, at a minimum, constitute twenty percent (20%) of the number of days that the host track receives simulcasts of quarter horse races from out-of-state.***"; and

On page 14, line 5, by deleting "***American Quarter Horse Association***" and inserting "***Kentucky Quarter Horse Racing Association***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 28, Representatives Fischer, Marcotte, Reinhardt, and Walton

HB 71, Representative Westrom

HB 77, Representative Hoffman

HB 99, Representatives Brinkman and Harmon

HB 115, Representative Damron

HB 147, Representative Westrom

HB 153, Representative Marcotte

HB 163, Representative Jenkins

HB 196, Representative Jenkins

HB 265, Representative Horlander

HB 349, Representative Stumbo

HB 360, Representatives Draud and Moberly

HB 375, Representative Marzian

HB 379, Representative Wilkey

HB 391, Representative Sims

HB 396, Representative S. Lee

HB 451, Representatives Draud and Reinhardt

HB 463, Representatives Baugh and Gooch

HJR 116, Representative Stewart

HR 51, Representative McKee

The following member filed a request to have his name withdrawn as co-sponsor of Bill:

HB 238, Representative Geveden

Announcements

The following meetings were announced:

Agriculture and Small Business Committee: Thursday, February 13, 2003, Noon

Local Government Committee: Thursday, February 13, 2003, 8:30 a.m.

Labor and Industry Committee: 20 minutes upon adjournment, Today, Room 125

Administration Regulations Subcommittee: upon adjournment, Today, Room 149

Government Contract Review: upon adjournment, Today, Room 131

Appropriations and Revenue Committee: upon adjournment, Today, Room 129

State Government Committee: Thursday, February 13, 2003, upon adjournment, Room 129

Transportation Committee: Thursday, February 13, 2003, 10 a.m.

Seniors, Military Affairs, and Public Safety Committee: upon adjournment, Today, Speaker's Office

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Thursday, February 13, 2003.

The motion that the House adjourn until 2 p.m., Thursday, February 13, 2003, was adopted by voice vote.

THURSDAY, FEBRUARY 13, 2003

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Adkins and Coleman.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Wednesday, February 12, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Graham moved that the rules be suspended to act on a Resolution. Agreed.

Representative Graham moved the adoption of the following **HR 105**:

HR 105, A RESOLUTION declaring September 21, 2003, to be Myositis Awareness Day.

WHEREAS, myositis is a chronic auto-immune disease that triggers the inflammation and degeneration of skeletal muscle tissues, in which inflammatory cells surround, invade, and destroy normal muscle fibers as though they were defective or foreign to the body; and

WHEREAS, myositis can be a debilitating and sometimes fatal disease; and

WHEREAS, currently 30,000 cases of myositis are estimated to exist in the United States; and

WHEREAS, there are various forms of myositis that have different effects on the body, including inflammatory myositis and polymyositis, which destroys normal muscle fibers; dermatomyositis, which is a rash and results in weakness of the trunk muscles; and inclusion body myositis, which includes gradual muscle weakness and affects both proximal and distal muscles; and

WHEREAS, limited public recognition of myositis has resulted in inadequately funded research;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body declares September 21, 2003, to be Myositis Awareness Day.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. David Cammack, 504 Pauite Trail, Frankfort, Kentucky 40601 and Mr. Bob Goldberg, Executive Director, The Myositis Association, 1233 20th Street N.W., Suite 402, Washington D.C. 20036.

There being no objection, **HR 105** was adopted.

Introduction of Bills and Resolutions

HB 484, by Representative Burch: AN ACT relating to the Kentucky Early Intervention System.

HB 485, by Representative S Lee: AN ACT relating to criminal procedure.

HB 486, by Representative Stein: AN ACT relating to driving under the influence.

HB 487, by Representative Stacy: AN ACT relating to state employee travel.

HB 488, by Representative Stacy: AN ACT relating to crimes and punishments.

HB 489, by Representative Barrows: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable, making an appropriation therefore, and declaring an emergency.

HB 490, by Representative Stacy: AN ACT relating to crimes and punishments.

HB 491, by Representative Crenshaw: AN ACT relating to hazardous duty retirement.

HB 492, by Representative Yonts: AN ACT relating to livestock disease control.

HB 493, by Representatives Edmonds, Stumbo, Rader, and Higdon: AN ACT relating to corrections.

HB 494, by Representative Baugh: AN ACT relating to disability retirement under the Kentucky Teachers' Retirement System.

HR 139, by Representative Harper: A RESOLUTION expressing support of the proposal by Jewish Hospital HealthCare Services for its Bullitt County Medical Center expansion and for its plans to build a Bullitt County outpatient surgical and diagnostic center.

HJR 140, by Representative Yonts: A JOINT RESOLUTION directing the Natural Resources and Environmental Protection Cabinet (NREPC) to rescind the Kentucky Pollutant Discharge Elimination System (KPDES) general coal permit dated August 11, 2002 and reinstate the KPDES general coal permit existing prior to that date.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 137**

Banking and Insurance: **HB 476, 479**

Education: **SB 17, 37, HB 481**

Health and Welfare: **HCR 135**

Judiciary: **HB 472, 482, 483**

Labor and Industry: **HB 480**

Licensing and Occupations: **HB 471**

Local Government: **SB 11, HB 473, 477, 478**

Natural Resources and Environment: **HJR 134**

Seniors, Military Affairs, and Public Safety: **HB 474**

State Government: **HB 470, 475, HCR 138**

Transportation: **HCR 136**

House Floor: **HR 133**

The Committee on Committees Report provided the following appointments to committees.

Banking and Insurance: Representative Gray

Elections, Constitutional Amendments, and Intergovernmental Affairs: Representative Gray

The Committee on Committees Report provided the following removals from committees.

Local Government: Representative Gray

Tourism Development and Energy: Representative Gray

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Labor and Industry: **HB 397, 398**

Licensing and Occupations: **HB 459, 210**

Tourism Development and Energy: **HCR 99**

Judiciary: **HB 161**

State Government: **HB 419, 442, 460, 461**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 303,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 303, AN ACT relating to Veterans Day.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting

professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and may be closed on the day of a primary election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(c) All schools shall be closed on the eleventh day of November in observance of Veterans Day. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

If Veterans Day falls on a Saturday, the preceding Friday shall be observed as the holiday, and if it falls on a Sunday, the following Monday shall be observed as the holiday.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the school day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

The Committee Substitute to **HB 303** is as follows:

HB 303, AN ACT relating to Veterans Day.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

All public high schools shall observe Veterans Day under this section.

(1) On Veterans Day, or one (1) of the five (5) school days preceding Veterans Day, one (1) class period shall be devoted to the observance of Veterans Day.

(2) Students shall assemble in one (1) or more groups, as decided by the school principal, to attend the Veterans Day program.

(3) The program shall be approved by the principal and, at a minimum, shall consist of a teacher and a veteran speaking on the meaning of Veterans Day.

(4) To develop a Veterans Day program, Kentucky public high schools are encouraged to seek advice from the Kentucky Department of Military Affairs and veterans' service organizations, including but not limited to the American Legion and the Veterans of Foreign Wars.

The Committee on Labor and Industry reported **HB 41, HB 241,** with Committee Substitute attached thereto, and **HB 372** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to unlawful practices by employers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.040 is amended to read as follows:

It is an unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, national origin, sex, age forty (40) and over, ***because of any genetic test result relating to the individual,*** because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

(2) To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, or age forty (40) and over, ***because of any genetic test result relating to the individual,*** because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;~~[or]~~

(3) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking***; or***

(4) To require as a condition of employment that any employee or applicant for employment undergo genetic testing.

HB 241, AN ACT relating to heating, ventilation, and air conditioning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.650 is amended to read as follows:

As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

(1) "Air conditioning or cooling system" means a system in which heat is removed from air, surrounding surfaces, or both;

(2) "Apprentice heating, ventilation, and air conditioning mechanic" means an individual in the process of learning the heating, ventilation, and air conditioning trade who assists and is under the supervision of a master heating, ventilation, and air conditioning contractor and a journeyman heating, ventilation, and air conditioning mechanic;

(3) "Board" means the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors;

(4) "Burner service" means the servicing of oil or gas burners used for heating air or water for purposes other than the transmission of heat;

(5) "Certificate" means a document issued by the board to an apprentice heating, ventilation, and air conditioning mechanic to assist a master heating, ventilation, and air conditioning contractor or a journeyman heating, ventilation, or air conditioning mechanic;

(6) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;

(7) "Department" means the Department of Housing, Buildings and Construction;

(8) "Heating system" means a system in which heat is transmitted by radiation, conduction, convection, or a combination of any of these methods to air, surrounding surfaces, or both. "Heating system" does not include fireplaces and free-standing stoves not incorporated into a primary heating system, electric thermal storage units, electric ceiling cable heating systems, or electric baseboard heating units;

(9) "Hydronic system" means a heating and cooling system using liquids to transmit or remove heat;

(10) "Journeyman heating, ventilation, and air conditioning mechanic" means an individual who is licensed by the board to perform heating, ventilation, and air conditioning work under the supervision, direction, and responsibility of a master heating, ventilation, and air conditioning contractor;

(11) "Maintenance person or maintenance engineer" means a person who is a regular and bona fide full-time employee or agent of a property owner, property lessor, property management company, or firm, not in the heating, ventilating, and air conditioning business that has jurisdiction of property where the routine maintenance of heating, ventilating, and air conditioning is being performed, provided the maintenance shall not include replacement of heating, ventilation, or air conditioning systems;

(12) *"Major repair" means the replacement of any of the following parts and components of heating, ventilation, and air conditioning systems: furnaces, condensing units, heat pumps, fan coil units, chiller systems, and heating boiler systems not covered by KRS Chapter 236. Major repair requires a permit. Replacement of any other component part may be considered minor repair and not require a permit;*

(13) "Master heating, ventilation, and air conditioning contractor" means a heating, ventilation, and air conditioning contractor who is licensed by the board to advertise and practice heating, ventilation, and air conditioning contracting in this Commonwealth;

(14)[~~(13)~~] "Practice of heating, ventilation, and air conditioning contracting" means the installation, maintenance, altering, remodeling, or repair of heating systems, ventilation systems, hydronic systems, burner service, or cooling systems;

(15)[~~(14)~~] "Routine maintenance of heating, ventilation, or air conditioning" means the routine and periodic servicing of heating, ventilation, and air conditioning systems, including cleaning, inspection, and adjustments to insure the proper operation, and the removal and replacement of component parts. "Routine maintenance of heating, ventilation, or air conditioning" shall not include the installation of complete new heating, ventilation, or air conditioning systems; and

(16)[~~(15)~~] "Ventilation system" means a natural or mechanical system of supplying air to or removing air from any space.

SECTION 2. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) No person, firm, or corporation shall:

(a) Install any new heating, ventilation, or air conditioning equipment or perform a major repair, as defined in Section 1 of this Act, unless a permit is obtained from the department. The permit shall give the name of the heating, ventilation, and air conditioning master contractor performing the work, the master contractor's license number, the full extent of the work to be performed, the name of the owner or owners of the property, and the location of the property including county and street address; or

(b) Use, continue to use, or permit the use of any heating, ventilation, and air conditioning system that an authorized inspector, employee, or agent determines was improperly altered or was not installed in accordance with Kentucky Building Code and referenced standards.

(2) The applicant for a heating, ventilation, and air conditioning permit, by the act of applying for the permit, shall consent to inspection of the heating, ventilation, and air conditioning system upon completion of installation by authorized inspectors of city, county, urban-county, or consolidated local governments.

(3) A permit issued by the department under Sections 1 to 8 of this Act shall be valid only for the location cited in the application, shall not be transferable, and shall expire and become null and void if the work authorized by the permit is not commenced within six (6) months from the issue date of the permit, or if the work authorized by the permit is suspended or abandoned for a period of six (6) months or more.

SECTION 3. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The board may promulgate administrative regulations to create the heating, ventilation, and air conditioning permitting application and inspection process and to establish a reasonable schedule of fees to implement the program in local regions. The board shall also establish heating, ventilation, and air conditioning inspection protocols to include construction, installation, or alteration of heating, ventilation, and air conditioning systems in all buildings.

(2) Any city, county, urban-county, or consolidated local government, or combination of two (2) or more may, by ordinance for each and by enacting the Kentucky Building Code and Sections 1 to 8 of this Act, become a local heating, ventilation, and air conditioning permitting and inspection program, and retain fees generated to implement the permitting and inspection program within their respective jurisdictions.

(3) Two (2) or more of the local governing entities cited in subsection (2) of this section may, by ordinance of each entity, jointly enforce and administer the permitting and inspection program within their respective boundaries. Agreements for joint enforcement shall conform to the provisions of KRS Chapter 65.

(4) The department, with the approval of the board, may authorize individual local governing entities or combinations of entities to administer, carry out, and enforce the rules and regulations of the department relating to heating, ventilation, and air conditioning installations and to issue permits and make inspections within their respective boundaries. A heating, ventilation, and air conditioning installation permit issued by an authorized local governing entity shall be considered a permit issued by the department.

(5) The department's heating, ventilation, and air conditioning inspectors shall have concurrent jurisdiction with local government inspectors in the enforcement of local heating, ventilation, and air conditioning laws.

(6) Any local government enacting a heating, ventilation, and air conditioning ordinance may appoint and fix the compensation of local government heating, ventilation, and air conditioning inspectors. No person shall be eligible for employment as a heating, ventilation, and air conditioning inspector unless he has at least four (4) years experience as a heating, ventilation, and air conditioning journeyman mechanic or master heating, ventilation, and air conditioning contractor, or unless he is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of employment the heating, ventilation, and air conditioning inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689 and Sections 1 to 8 of this Act.

(7) Nothing contained in KRS 198B.650 to 198B.689 and Sections 1 to 8 of this Act shall be construed as prohibiting a city, county, urban-county, or consolidated local government from collecting occupational license fees from persons, firms, or corporations engaged in the heating, ventilation, and air conditioning business.

Section 4. KRS 198B.654 is amended to read as follows:

(1) The board shall promulgate administrative regulations to administer, coordinate, and enforce the provisions of KRS 198B.650 to 198B.689 *and Sections 1 to 8 of this Act*; conduct examinations; maintain a list of all licensees and certificate holders; keep minutes of board meetings and a record of its proceedings; and register and keep records of all apprentices.

(2) The board, or its designee, may issue subpoenas, administer oaths, examine witnesses, conduct disciplinary proceedings, investigate allegations of wrongdoing under KRS 198B.650 to 198B.689, issue licenses and certificates, and seek injunctive relief to enforce the provisions of KRS 198B.650 to 198B.689. In seeking injunctive relief, the board shall not be required to post any bond.

(3) The board may promulgate administrative regulations in accordance with KRS Chapter 13B to establish the amount of fines to be charged for violations of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, the Kentucky Building Code, or the rules or administrative regulations relating thereto. The department may assess fines for violations in accordance with the amounts set by administrative regulation. All fines collected and paid into the State Treasury shall be credited to a revolving trust and agency account and shall be used solely for the administration and enforcement of KRS 198B.650 to 198B.689 and Sections 1 to 8 of this Act. The moneys in the account shall not lapse at the close of the fiscal year.

SECTION 5. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of enforcing the provisions of KRS 198B.650 to 198B.689 and Sections 1 to 8 of this Act, officers, agents, and inspectors of the department shall have the power and authority to enter upon permitted premises at all reasonable times in order to make inspections, to interview all persons, and to request proof of heating, ventilation, and air conditioning licenses and installation permits and other evidence of compliance. Officers, agents and inspectors of the department shall have the authority to issue a stop order to any owner, agent, or occupant of real property whenever the heating, ventilation, and air conditioning system under inspection is found to be in violation of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, or the Kentucky Building Code's heating, ventilation, and air conditioning mechanical sections.

(2) Notwithstanding the existence or pursuit of any other civil or criminal penalties, the department, its officers, agents, or inspectors are authorized to institute and maintain actions to restrain and enjoin any violation of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, the Kentucky Building Code, or the rules or administrative regulations of the department relating thereto.

(3) City and county attorneys, Commonwealth's Attorneys, and the Attorney General may, within their respective jurisdictions, represent the department, its officers, agents, and inspectors in the enforcement of the provisions of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, and the Kentucky Building Code. The department, when necessary and at its discretion, may employ special attorneys for assistance and may pay reasonable compensation and other costs from unexpended heating, ventilation, and air conditioning funds.

SECTION 6. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any of the provisions of KRS 198B.650 to 198B.689 and Sections 1 to 8 of this Act shall be liable for a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each day the violation occurs.

(2) The board may seek enforcement of fines issued by the department by instituting an action in the Franklin Circuit Court.

(3) Nothing shall prohibit the board from taking action to suspend or revoke the license of a person against whom fines have been assessed for any of the reasons set forth in KRS 198B.672.

SECTION 7. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court where a violation occurs shall have jurisdiction and venue in all civil and injunctive actions instituted by the department for the enforcement of the provisions of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, and orders issued thereunder.

(2) The Franklin Circuit Court shall hold concurrent jurisdiction and venue in all civil and injunctive actions instituted by the department for the enforcement of the provisions of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, the Kentucky Building Code, referenced standards, orders issued thereunder, and other rules and administrative regulations of the department.

(3) The district court where a violation occurs shall have jurisdiction and venue in all criminal actions for the enforcement of the provisions of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, the Kentucky Building Code, and orders issued thereunder. The Franklin Circuit Court shall hold concurrent jurisdiction and venue on all appeals of criminal actions for the enforcement of the provisions of KRS 198B.650 to 198B.689, Sections 1 to 8 of this Act, and orders issued thereunder.

SECTION 8. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 8 of this Act shall become effective January 1, 2005, and the board shall promulgate administrative regulations to establish methods, processes, and policies to implement Sections 1 to 8 of this Act by the effective date.

(2) Any city, county, urban-county, or consolidated local government may adopt a heating, ventilation, and air conditioning permitting and inspection program to be administered locally by ordinance that shall meet and maintain the requirements of Sections 1 to 8 of this Act.

(3) Any heating, ventilation, and air conditioning system installed in connection with the Kentucky Building Code shall be permitted and inspected by the heating, ventilation, and air conditioning inspector and shall be subject to further inspection by the certified building inspector having jurisdiction over the building.

The Committee Substitute to **HB 241** is as follows:

HB 241, AN ACT relating to heating, ventilation, and air conditioning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.650 is amended to read as follows:

As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

(1) "Air conditioning or cooling system" means a system in which heat is removed from air, surrounding surfaces, or both;

(2) "Apprentice heating, ventilation, and air conditioning mechanic" means an individual in the process of learning the heating, ventilation, and air conditioning trade who assists and is under the supervision of a master heating, ventilation, and air conditioning contractor and a journeyman heating, ventilation, and air conditioning mechanic;

(3) "Board" means the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors;

(4) "Burner service" means the servicing of oil or gas burners used for heating air or water for purposes other than the transmission of heat;

(5) "Certificate" means a document issued by the board to an apprentice heating, ventilation, and air conditioning mechanic to assist a master heating, ventilation, and air conditioning contractor or a journeyman heating, ventilation, or air conditioning mechanic;

(6) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;

(7) "Department" means the Department of Housing, Buildings and Construction;

(8) "Heating system" means a system in which heat is transmitted by radiation, conduction, convection, or a combination of any of these methods to air, surrounding surfaces, or both. "Heating system" does not include fireplaces and free-standing stoves not incorporated into a primary heating system, electric thermal storage units, electric ceiling cable heating systems, or electric baseboard heating units;

(9) "Hydronic system" means a heating and cooling system using liquids to transmit or remove heat;

(10) "Journeyman heating, ventilation, and air conditioning mechanic" means an individual who is licensed by the board to perform heating, ventilation, and air conditioning work under the supervision, direction, and responsibility of a master heating, ventilation, and air conditioning contractor;

(11) "Maintenance person or maintenance engineer" means a person who is a regular and bona fide full-time employee or agent of a property owner, property lessor, property management company, or firm, not in the heating, ventilating, and air conditioning business that has jurisdiction of property where the routine maintenance of heating, ventilating, and air conditioning is being performed, provided the maintenance shall not include replacement of heating, ventilation, or air conditioning systems;

(12) ***"Major repair" means the replacement of any of the following heating, ventilation, and air conditioning equipment: furnaces, condensing units, heat pumps, fan coil units, chiller systems, and heating boiler systems not covered by KRS Chapter 236;***

(13) "Master heating, ventilation, and air conditioning contractor" means a heating, ventilation, and air conditioning contractor who is licensed by the board to advertise and practice heating, ventilation, and air conditioning contracting in this Commonwealth;

(14) "Permit" means a document issued by the department or its authorized agent following inspection of an original heating, ventilation, and air conditioning system or a major repair to the system;

(15)[~~(13)~~] "Practice of heating, ventilation, and air conditioning contracting" means the installation, maintenance, altering, remodeling, or repair of heating systems, ventilation systems, hydronic systems, burner service, or cooling systems;

(16)[~~(14)~~] "Routine maintenance of heating, ventilation, or air conditioning" means the routine and periodic servicing of heating, ventilation, and air conditioning systems, including cleaning, inspection, and adjustments to insure the proper operation, and the removal and replacement of component parts. "Routine maintenance of heating, ventilation, or air conditioning" shall not include the installation of complete new heating, ventilation, or air conditioning systems; and

(17)[~~(15)~~] "Ventilation system" means a natural or mechanical system of supplying air to or removing air from any space.

SECTION 2. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) No person shall install an original heating, ventilation, or air conditioning system or perform a major repair, as defined in Section 1 of this Act, unless a permit is obtained from the department or its authorized agent.

(2) The applicant for a heating, ventilation, and air conditioning permit, by the act of applying for the permit, shall consent to inspection of the heating, ventilation, and air conditioning system upon completion of installation by authorized inspectors of state, city, county, urban-county, charter county, or consolidated local governments.

(3) The permit shall give the name of the person who performed the work, the full extent of the work performed, the name of the owner or owners of the property, and the location of the property including county and street address. If the work is required to be performed by a master heating, ventilation, and air conditioning contractor the master license number shall be listed. In no event shall a person exempt under KRS 198B.674 be required to possess or show proof of a heating, ventilation and air conditioning license in order to obtain the permit required by KRS 198B.650 to 198B.689.

(4) No permit shall be required for any installation or major repair performed on a manufactured home as defined in KRS 227.550(7) by a manufactured home retailer licensed pursuant to KRS 227.610 or by a manufacturer as defined in KRS 227.550(8).

(5) Nothing in this section shall apply to installations or major repairs made on buildings located on land assessed as agricultural property.

SECTION 3. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The board may promulgate administrative regulations to create the heating, ventilation, and air conditioning permitting application and inspection process and to establish a reasonable schedule of fees to implement the program. The board shall also establish heating, ventilation, and air conditioning inspection protocols to include construction, installation, or major repairs of heating, ventilation, and air conditioning systems in all buildings designed for human occupancy. The fees shall not exceed the actual costs for administration of the program.

(2) The department, with the approval of the board, may authorize individual local governing entities or combinations of entities to administer, carry out, and enforce the rules and regulations of the department relating to heating, ventilation, and air conditioning installations and to issue permits and make inspections within their respective boundaries or to perform any portion of those functions. The department may enter into contractual arrangements with the local governing entities regarding the sharing of inspection and permitting fees. A heating, ventilation, and air conditioning installation permit issued by an authorized local governing entity shall be considered a permit issued by the department.

(3) Any local government enforcing the provisions of KRS 198B.650 to 198B.689 pursuant to subsection (2) of this section may appoint and fix the compensation of local government heating, ventilation, and air conditioning inspectors. No person shall be eligible for employment as a heating, ventilation, and air conditioning inspector unless he has at least four (4) years experience as a heating, ventilation, and air conditioning journeyman mechanic or master heating, ventilation, and air conditioning contractor, or unless he is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of employment the heating, ventilation, and air conditioning inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689.

(4) No local government may require any additional heating, ventilation, and air conditioning inspection or permit or establish any local inspection or permitting program.

Section 4. KRS 198B.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 198B.140, *KRS 198B.650 to 198B.689* or of the Uniform State Building Code, or any directive or order issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000). Each day the violation continues shall constitute a separate offense.

(2) Any person who violates the provisions of KRS 198B.310 to 198B.330 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or be imprisoned for not more than one (1) year, or both.

(3) Any person who violates any provision of KRS 198B.410 to 198B.540, or regulation issued thereunder, shall be fined a sum of five hundred dollars ($500) for each offense.

SECTION 5. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

All fines collected and paid into the State Treasury shall be credited to a revolving trust and agency account and shall be used solely for the administration and enforcement of KRS 198B.650 to 198B.689. The moneys in the account shall not lapse at the close of the fiscal year.

SECTION 6. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of enforcing the provisions of KRS 198B.650 to 198B.689, officers, agents, and inspectors of the department shall have the power and authority to enter upon permitted premises at all reasonable times in order to make inspections, to interview all persons, and to request proof of heating, ventilation, and air conditioning licenses and installation permits and other evidence of compliance. Officers, agents and inspectors of the department shall have the authority to issue a stop order to any owner, agent, or occupant of real property whenever the heating, ventilation, and air conditioning system under inspection is found to be in violation of KRS 198B.650 to 198B.689 or the Kentucky

Building Code's heating, ventilation, and air conditioning mechanical sections.

(2) Notwithstanding the existence or pursuit of any other civil or criminal penalties, the department, its officers, agents, or inspectors are authorized to institute and maintain actions to restrain and enjoin any violation of KRS 198B.650 to 198B.689, the Kentucky Building Code, or the rules or administrative regulations of the department relating thereto.

(3) City and county attorneys, Commonwealth's Attorneys, and the Attorney General may, within their respective jurisdictions, represent the department, its officers, agents, and inspectors in the enforcement of the provisions of KRS 198B.650 to 198B.689 and the Kentucky Building Code. The department, when necessary and at its discretion, may employ special attorneys for assistance and may pay reasonable compensation and other costs from unexpended heating, ventilation, and air conditioning funds.

SECTION 7. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court where a violation occurs shall have jurisdiction and venue in all civil and injunctive actions instituted by the department for the enforcement of the provisions of KRS 198B.650 to 198B.689 and orders issued thereunder.

(2) The Franklin Circuit Court shall hold concurrent jurisdiction and venue in all civil and injunctive actions instituted by the department for the enforcement of the provisions of KRS 198B.650 to 198B.689, the Kentucky Building Code, referenced standards, orders issued thereunder, and other rules and administrative regulations of the department.

(3) The district court where a violation occurs shall have jurisdiction and venue in all criminal actions for the enforcement of the provisions of KRS 198B.650 to 198B.689, the Kentucky Building Code, and orders issued thereunder. The Franklin Circuit Court shall hold concurrent jurisdiction and venue on all appeals of criminal actions for the enforcement of the provisions of KRS 198B.650 to 198B.689 and orders issued thereunder.

SECTION 8. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

(1) If an installation or major repair required to obtain a permit does not meet the requirements of the Kentucky Building Code, Kentucky Residential Code or other applicable standard, the inspector may refuse to issue the permit. The department may prohibit the continued use of a heating, ventilation, and air conditioning system that an authorized inspector determines was improperly installed or altered if continued use threatens human life.

(2) An applicant aggrieved by an action of an inspector or the department may request a hearing pursuant to KRS Chapter 13B.

Section 9. This Act takes effect January 1, 2005.

HB 372, AN ACT relating to the Kentucky State Police, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of State Police is directed not to issue any new recently purchased .45 caliber semiautomatic pistols to any employee of the State Police.

Section 2. The Department of State Police shall pay to the vendor of the recently purchased .45 caliber pistols the amount specified in the contract for all remaining 10mm semiautomatic pistols previously issued as duty weapons.

Section 3. (1) The provisions of any other statute to the contrary notwithstanding, the Department of State Police may sell existing surplus 10mm semiautomatic pistols to sworn officers of the Department of State Police at the price specified in the contract for .45 caliber semiautomatic pistols.

(2) The Department of State Police shall notify all sworn officers of the availability of surplus semiautomatic pistols, the payment arrangements, and a date by which all sales shall be completed.

(3) All money from the sale of surplus 10mm semiautomatic pistols shall be paid to the Department of State Police and utilized for the purposes specified in this Act.

Section 4. (1) Except as provided in Section 7 of this Act the provisions of any other statute to the contrary notwithstanding, the Department of State Police and the Finance and Administration Cabinet shall auction all remaining surplus 10mm semiautomatic duty pistols. One (1) or more auctions may be conducted at the discretion of the Department of State Police.

(2) Bidding at the auction shall be restricted to federally licensed firearms dealers having a license appropriate to the firearms auctioned.

(3) The Finance and Administration Cabinet may set a reserve price for acceptable bids for these firearms.

(4) All money received from the auction of surplus 10mm semiautomatic pistols shall be paid to the Department of State Police and utilized for the purposes specified in this Act.

Section 5. (1) Except as provided in Section 7 of this Act, the provisions of any other statute to the contrary notwithstanding, the Department of State Police shall auction all .45 caliber recently purchased semiautomatic pistols.

(2) Bidding at the auction shall be restricted to federally licensed firearms dealers having a license appropriate to the firearms auctioned.

(3) The Finance and Administration Cabinet may set a reserve price for acceptable bids for these firearms.

(4) All money received from the auction of surplus .45 caliber semiautomatic pistols shall be paid to the Department of

State Police and utilized for the purposes specified in this Act.

Section 6. The Department of State Police may retain in their inventory as many 10mm semiautomatic former duty pistols and as many .45 caliber semiautomatic duty pistols as may be determined by the department to be necessary for historical, training, and forensic laboratory reference purposes.

Section 7. The Department of State Police and the Finance and Administration Cabinet are directed to replace all current and newly purchased primary duty firearms with firearms of the make and caliber indicated by the preference of the officers during State Police testing of firearms from more than one manufacturer.

Section 8. The funding authorized by 2002 Kentucky Acts Chapter 368 (House Bill 97) shall continue until June 30, 2004, and the total funding from the fund specified in KRS 16.220 shall be increased to $400,000 provided that it is used solely for the purposes set forth in this Act.

Section 9. Any statute to the contrary notwithstanding, and any other act passed by the 2003 regular session of the General Assembly to the contrary notwithstanding, until the earlier of the completion of the acquisition of new semiautomatic pistols, holsters, and related equipment by the Department of State Police or June 30, 2004:

(1) No moneys received from the fund created by KRS 16.220 shall be expended except for the purposes stated in this Act, unless the moneys are expended solely for the purposes specified in KRS 16.220.

(2) No moneys received from the fund created by the auction or sale of 10mm and .45 caliber semiautomatic pistols shall be used for any purpose other than the acquisition of new firearms, holsters, and related equipment by the Department of State Police or to replace funds spent by the Department of State Police from other sources for the acquisition of new firearms, holsters, and related equipment as provided for in this Act. No elected official, public servant, or other person shall authorize an expenditure of these funds for any other purpose.

(3) No elected official, public servant, or other person shall authorize the expenditure of any funds from the fund created by KRS 16.220 or generated from the sale or auction of firearms pursuant to this Act for any purpose other than as specified in this section.

(4) Funds in the account created pursuant to KRS 16.220 shall not be subject to any budget reduction program until June 30, 2004. This restriction shall apply to funds in the fund created pursuant to KRS 16.220 as of the effective date of this Act and to any moneys added to the fund until June 30, 2004, whether as proceeds from the sale of firearms or proceeds received from any other source. The provisions of this Act shall prevail over any other act containing a provision to the contrary enacted by the 2003 Regular Session of the General Assembly.

(5) Funds generated from the sale and auction of surplus firearms owned by the Department of State Police shall not be subject to any budget reduction program until June 30, 2004. The provisions of this Act shall prevail over any other act containing a provision to the contrary enacted by the 2003 Regular Session of the General Assembly.

Section 10. In the event of a conflict, the provisions of this Act shall prevail with regard to any other act passed by the 2003 Regular Session of the General Assembly.

Section 11. Since the present duty firearms of the Department of State Police are in need of replacement and since the General Assembly has determined that the newly purchased firearms not be issued and that both firearms be replaced as provided in Sections 1 to 7 of this Act, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Health and Welfare reported **HB 19, HB 26,** with Committee Substitute attached thereto, **HB 79,** with Committee Substitute attached thereto, **HB 80, HB 99,** with Committee Substitute attached thereto, **HB 110, HB 137,** with Committee Substitute attached thereto, **HB 147, HB 272, HB 299, HB 312, HB 355,** with Committee Substitute attached thereto, and **HCR 22** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19, AN ACT relating to death certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, ***and if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the State Registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. Such report shall be considered an amendment, and the death certificate shall be marked "Amended"***[~~the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475~~]. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

(c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:

1. "Did the deceased have diabetes?"; and
2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health Services to be infectious, contagious, or communicable and dangerous to the public

health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health Services and the local health department. The Cabinet for Health Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

HB 26, AN ACT relating to a consistent public policy for the provision of services to persons with disabilities and the frail elderly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that, in preparation of any budget in accordance with this chapter, consideration should be given to a consistent public policy for persons with disabilities and the frail elderly and their informal caregivers, providing them with the following rights and responsibilities:

(1) The right to individual independence, dignity, privacy, and respect;

(2) The right to individual choice regarding planning and managing of programs to assist with living in the community in the place of their choice;

(3) The right to be educated about their rights and choices regarding state and local programs;

(4) The right to a timely evaluation of their ability to live in or return to the community;

(5) The right to appropriate community-based services and a full range of choices to support an integrated and seamless continuum of care;

(6) The right to a high quality of care, regardless of setting, whether the care is given in an institution, in the home, or in the community; and

(7) The right to fiscally sound programs and funding mechanisms that support them to remain in their home and community of choice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that persons with disabilities and the frail elderly and their informal caregivers should be supported by a consistent public policy for the provision of care, with rights and responsibilities as follows:

(1) The right to individual independence, dignity, privacy, and respect;

(2) The right to individual choice regarding planning and managing of programs to assist with living in the community in the place of their choice;

(3) The right to be educated about their rights and choices regarding state and local programs;

(4) The right to a timely evaluation of their ability to live in or return to the community;

(5) The right to appropriate community-based services and a full range of choices to support an integrated and seamless continuum of care;

(6) The right to a high quality of care, regardless of setting, whether the care is given in an institution, in the home, or in the community; and

(7) The right to fiscally sound programs and funding mechanisms that support them to remain in their home and community of choice.

The Committee Substitute to **HB 26** is as follows:

HB 26, AN ACT relating to a consistent public policy for the provision of services to persons with disabilities and the frail elderly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that, in preparation of any budget in accordance with this chapter, consideration should be given to a consistent public policy for persons with disabilities and the frail elderly and their informal caregivers, providing them with the following rights and responsibilities:

(1) The right to individual independence, dignity, privacy, and respect;

(2) The right to individual choice regarding planning and managing of programs to assist with living in the community in the place of their choice;

(3) The right to be educated about their rights and choices regarding state and local programs;

(4) The right to a timely evaluation of their ability to live in or return to the community;

(5) The right to appropriate community-based services and a full range of choices to support an integrated and seamless continuum of care;

(6) The right to a high quality of care, regardless of setting, whether the care is given in an institution, in the home, or in the community; and

(7) The right to fiscally sound programs and funding mechanisms that support them to remain in their home and community of choice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that persons with disabilities and the frail elderly and their informal caregivers should be supported by a consistent public policy for the provision of care, with rights and responsibilities as follows:

(1) The right to individual independence, dignity, privacy, and respect;

(2) The right to individual choice regarding planning and managing of programs to assist with living in the community in the place of their choice;

(3) The right to be educated about their rights and choices regarding state and local programs;

(4) The right to a timely evaluation of their ability to live in or return to the community;

(5) The right to appropriate community-based services and a full range of choices to support an integrated and seamless continuum of care;

(6) The right to a high quality of care, regardless of setting, whether the care is given in an institution, in the home, or in the community; and

(7) The right to fiscally sound programs and funding mechanisms that support them to remain in their home and community of choice.

Section 3. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670***; or***

12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health-mental retardation board established under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet for Health Services or the Cabinet for Families and Children to provide adult foster care.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

HB 79, AN ACT relating to individuals with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that:

(a) A significant portion of the population of Kentucky receives federal or state benefits for disabling conditions;

(b) Current state programs and policies create disincentives for persons with disabilities to become employed, to maintain employment, or to further their employment goals; and

(c) It is advantageous to economic development of the Commonwealth and in the best interests of its citizens to have programs and policies that support employment.

(2) It is the intent of the General Assembly that all state agencies work with citizens to identify and remove barriers to employment for persons with disabilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall convene a policy group to develop a program to allow individuals with disabilities to purchase or maintain Medicaid coverage to support obtaining or maintaining employment. The program shall be known as the Medicaid Buy-In program.

(2) (a) The policy group shall include representatives from the following stakeholders or disability advocates:

1. The Statewide Independent Living Council;

2. The Arc of Kentucky;

3. The Kentucky Consumer Advocate Network;

4. The Kentucky Disabilities Coalition

5. The Brain Injury Association of Kentucky; and

6. The Business Leadership Network of the University of Kentucky.

(b) The policy group shall include at least four (4) individuals with disabilities, appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) individuals submitted by July 15, 2003 by any consumer advocacy organization operating within Kentucky. Individuals appointed under this paragraph shall receive reimbursement for expenses related to the policy group meetings in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

(c) The policy group shall include representatives of the following state government entities:

1. The Department for Medicaid Services;

2. The Department for Mental Health and Mental Retardation Services;

3. The Vocational Rehabilitation Department and the Department of the Blind of the Workforce Development Cabinet;

4. The Transportation Cabinet;

5. The Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

6. The Commission on the Deaf and Hard of Hearing of the Education, Arts and Humanities Cabinet

7. The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses; and

8. The Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities.

(3) The policy group shall select two (2) members to serve as co-chairs, at least one (1) of whom shall be a member under subsection (2)(a) or (2)(b) of this section. Staff services for the policy group shall be provided by the Workforce Development Cabinet and the Cabinet for Health Services.

(4) The policy group:

(a) May establish ad hoc groups or committees to assist in meeting the requirements of this section;

(b) Shall conduct its first meeting no later than August 15, 2003;

(c) Shall have access to necessary data from any state or local government entity and, when necessary, shall assure compliance with all state and federal laws regarding confidentiality of personal records;

(d) Shall identify financing for the Medicaid Buy-In program and address the availability of funding;

(e) Shall assess cost-effectiveness and economic benefits of a Medicaid Buy-In program; and

(f) Shall make recommendations regarding:

1. Eligibility requirements, including but not limited to age, earned and unearned income limits, assets and resource limits, premiums, and other cost-sharing measures;

2. Access to personal care assistant services through the Kentucky State Medicaid Plan or plan waivers;

3. Coordination with the Ticket to Work program administered by the Social Security Administration; and

4. Policy considerations for the General Assembly.

(5) The cabinet shall apply for federal grants to assist in the development of infrastructure necessary to support the Medicaid Buy-In program. If federal funding is received under this section, a portion of the funding shall be designated for operating costs of the policy group. The lack of receipt of federal funds under this section shall not affect the requirements of this section.

(6) All state agencies shall provide assistance to the policy group upon request.

(7) The policy group shall present the Medicaid Buy-In program plan to the Governor, the Legislative Research Commission, and the co-chairs of the Interim Joint Committee on Health & Welfare by November 1, 2003.

(8) The cabinet shall implement the Medicaid Buy-In program by July 1, 2004.

The Committee Substitute to **HB 79** is as follows:

HB 79, AN ACT relating to individuals with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that:

(a) A significant portion of the population of Kentucky receives federal or state benefits for disabling conditions;

(b) Current state programs and policies create disincentives for persons with disabilities to become employed, to maintain employment, or to further their employment goals; and

(c) It is advantageous to economic development of the Commonwealth and in the best interests of its citizens to have programs and policies that support employment.

(2) It is the intent of the General Assembly that all state agencies work with citizens to identify and remove barriers to employment for persons with disabilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall convene a policy group to develop a program to allow individuals with disabilities to purchase or maintain Medicaid coverage to support obtaining or maintaining employment. The program shall be known as the Medicaid Buy-In program.

(2) (a) The policy group shall include representatives from the following stakeholders or disability advocates:

1. The Statewide Independent Living Council;

2. The Arc of Kentucky;

3. The Kentucky Consumer Advocate Network;

4. The Kentucky Disabilities Coalition

5. The Brain Injury Association of Kentucky; and

6. The Business Leadership Network of the University of Kentucky.

(b) The policy group shall include at least four (4) individuals with disabilities, appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) individuals submitted by July 15, 2003 by any consumer advocacy organization operating within Kentucky. Individuals appointed under this paragraph shall receive reimbursement for expenses related to the policy group meetings in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

(c) The policy group shall include representatives of the following state government entities:

1. The Department for Medicaid Services;

2. The Department for Mental Health and Mental Retardation Services;

3. The Vocational Rehabilitation Department and the Department of the Blind of the Workforce Development Cabinet;

4. The Transportation Cabinet;

5. The Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

6. The Commission on the Deaf and Hard of Hearing of the Education, Arts and Humanities Cabinet

7. The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses; and

8. The Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities.

(3) The policy group shall select two (2) members to serve as co-chairs, at least one (1) of whom shall be a member under subsection (2)(a) or (2)(b) of this section. Staff services for the policy group shall be provided by the Workforce Development Cabinet and the Cabinet for Health Services.

(4) The policy group:

(a) May establish ad hoc groups or committees to assist in meeting the requirements of this section;

(b) Shall conduct its first meeting no later than August 15, 2003;

(c) Shall have access to necessary data from any state or local government entity and, when necessary, shall assure compliance with all state and federal laws regarding confidentiality of personal records;

(d) Shall identify financing for the Medicaid Buy-In program and address the availability of funding;

(e) Shall assess cost-effectiveness and economic benefits of a Medicaid Buy-In program; and

(f) Shall make recommendations regarding:

1. Eligibility requirements, including but not limited to age, earned and unearned income limits, assets and

resource limits, premiums, and other cost-sharing measures;

2. Access to personal care assistant services through the Kentucky State Medicaid Plan or plan waivers;

3. Coordination with the Ticket to Work program administered by the Social Security Administration; and

4. Policy considerations for the General Assembly.

(5) The cabinet may apply for federal grants to assist in the development of infrastructure necessary to support the Medicaid Buy-In program. If federal funding is received under this section, a portion of the funding shall be designated for operating costs of the policy group. The lack of receipt of federal funds under this section shall not affect the requirements of this section.

(6) All state agencies shall provide assistance to the policy group upon request.

(7) The policy group shall present the Medicaid Buy-In program plan to the Governor, the Legislative Research Commission, and the co-chairs of the Interim Joint Committee on Health & Welfare by November 1, 2003.

HB 80, AN ACT relating to professional counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.505 is amended to read as follows:

(1) No person shall engage in the practice of professional counseling or present in a way as to imply or would reasonably be deemed to imply licensure to practice professional counseling unless the person has first been issued a valid license by the board.

(2) Subsection (1) of this section shall not apply to any person who is licensed, certified, or registered under any other provisions of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, professional art therapists, marriage and family therapists, or students in accredited programs in those professions, and shall not restrict their practice, descriptions of services, or the manner in which they hold themselves out to the public.

(3) Subsection (1) of this section shall not be construed to alter, amend, or interfere with the practice of those who engage in employment counseling, job placement counseling, vocational rehabilitation counseling, victim counseling or advocacy, pastoral counseling based on any tenet of one's religious beliefs, or school counseling.

(4) Subsection (1) of this section shall not apply to the activities and services of a student intern or trainee in professional counseling who is pursuing a program of studies in counseling at an accredited institution of higher education, if these activities are performed under the supervision or direction of an approved supervisor and the activities are a part of the supervised program of study as reflected in an official transcript, and if the person is designated a professional counselor intern or student in training.

(5) Nothing in this section shall be construed to limit the activities of a sexual assault counselor, victim advocate, or crisis response team as provided in KRE 506, or a person certified under KRS Chapter 403 to provide court-ordered domestic violence offender treatment services or a person providing services to sexual offenders under KRS 197.400 to 197.440.

(6) Nothing in this section shall be construed to limit the activities of an authorized employee or volunteer providing bereavement services as part of a hospice program licensed under the provisions of KRS Chapter 216B, or any person contracted to perform bereavement services on behalf of a hospice program licensed under the provisions of KRS Chapter 216B.

HB 99, AN ACT relating to an advance directive for mental health treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) "Advance directive for mental health treatment" or "advance directive" means a written document, or a document in a form consistent with the provisions of the Federal Americans with Disabilities Act (ADA), made voluntarily by a grantor in accordance with the provisions of Sections 1 to 7 of this Act that provides instructions for mental health treatment.

(2) "Grantor" means an adult eighteen (18) years of age or older whose right to make health care decisions or to execute legal documents has not been limited and who has executed an advance directive for mental health treatment.

(3) "Surrogate" means an adult who has not provided health care services to the grantor, who has been designated by the grantor to act, and who agrees to act on behalf of the grantor in accordance with Sections 1 to 7 of this Act. The term includes an alternate surrogate.

(4) "Procedures for emergency intervention" means the use of physical or chemical restraint or seclusion in an emergency situation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) An adult may execute an advance directive for mental health treatment that includes one or more of the following:

(a) Refusal of specific psychotropic medications, but not an entire class of psychotropic medications. This refusal may be due to factors that include but are not limited to their lack of efficacy, known drug sensitivity, or previous experience of adverse reactions;

(b) Refusal of electric shock therapy (ECT);

(c) Stated preferences for psychotropic medications;

(d) Stated preferences for procedures for emergency interventions; and

(e) Provision of information in any area specified by the grantor.

(2) The execution of an advance directive shall be complete when signed by the grantor and:

(a) Signed by two (2) adult witnesses who attest that the grantor:

1. Is known to them;

2. Signed the advance directive in their presence; and

3. Did not appear to be under duress, fraud, or undue influence; or

(b) Acknowledged before a notary public or other person authorized to administer oaths.

(3) The following persons shall not serve as a witness, a notary public, or other person authorized to administer oaths to the signing of an advance directive:

(a) The grantor's current health care provider or a relative of the current health care provider; and

(b) An owner, operator, employee, or relative of an owner or operator of a health facility in which the grantor is a client or resident.

(4) An advance directive shall not override the grantor's right under federal and state law to refuse treatment.

(5) The grantor or the surrogate of the grantor shall be responsible for providing a copy of the advance directive to the grantor's health care provider and health care facility where the grantor is a patient.

(6) An advance directive for mental health treatment shall be honored in any setting that is required to honor advance directives under Title XVIII or Title XIX of the federal Social Security Act.

(7) A health care provider, health care facility, surrogate, or other responsible party shall not be subject to criminal prosecution or civil liability if acting in agreement with an advance directive for mental health treatment executed in accordance with Sections 1 to 7 of this Act or if acting in good faith without knowledge of the existence or revocation of an advance directive.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) A surrogate designated by a grantor in an advance directive for mental health treatment shall act on behalf of the grantor in accordance with the desires of the grantor as indicated in the advance directive and may override the advance directive only if there is substantial medical evidence that failing to do so would result in harm to the grantor.

(2) When acting on behalf of the grantor, the surrogate shall consider the recommendations of the health care provider and honor the decisions made by the grantor as expressed in the advance directive.

(3) If the grantor's instructions or preferences are not stated in the advance directive, the surrogate may act in good faith on behalf of the grantor in the manner that the surrogate believes the grantor would act.

(4) A surrogate may resign at any time by giving written notice to the grantor, to the immediate successor surrogate, if any, to the attending health care provider, or to the health care facility.

SECTION 4. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) A health care provider or health care facility shall provide mental health treatment that complies with the instructions in an advance directive to the fullest extent possible when the instructions are within standards for mental and physical health care and permitted by state and federal law.

(2) A health care provider or health care facility may override expressed refusals for treatment only if:

(a) A court order contradicts the advance directive; or

(b) There is an emergency endangering a person's life or posing a serious risk to physical health.

(3) Deviations from expressed preferences in an advance directive shall be documented by the health care provider or health care facility in the grantor's medical record.

(4) A health care provider or health care facility that refuses to comply with an advance directive of a grantor or a decision made by a surrogate shall:

(a) Immediately inform the grantor or surrogate, if one is designated, of the refusal; and

(b) Not impede the transfer of the grantor to another health care provider or health care facility.

SECTION 5. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An advance directive may be revoked by:

(1) A document that is signed and dated by the grantor and declares an intention to revoke;

(2) An oral statement of intent to revoke made by a grantor to a health care provider in the presence of some other person; or

(3) Destruction of the document by the grantor or by some person in the grantor's presence at the grantor's direction.

SECTION 6. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An advance directive for mental health treatment shall be in substantially the following form:

"Advance directive for mental health treatment

I, __________, willfully and voluntarily execute this advance directive for mental health treatment. I want the instructions in this advance directive to be followed as described below.

Designated surrogate

____ I am naming a surrogate to see that my instructions for mental health treatment are carried out.

____ I am not naming a surrogate to see that my instructions for mental health treatment are carried out.

I designate __________ to act as my surrogate. If this person withdraws or is unwilling to act on my behalf, or if I revoke that person's authority to act as my surrogate, I designate __________ to act as my alternate surrogate.

If I do not designate a surrogate, if my surrogate and alternate surrogate withdraw or are unwilling to act on my behalf, or if I revoke their authority to act, then the health care provider and health care facility may proceed to render treatment in accordance with my instructions as described here and in accordance with standards for mental and physical health care.

The person acting as my surrogate is authorized to act in accordance with the content of this advance directive and may override the advance directive if, and only if, there is substantial medical evidence that failing to do so would result in harm to me. If my instructions and preferences are not stated in the advance directive, the surrogate may act in good faith in making treatment decisions in the manner in which the surrogate believes I would act.

Psychotropic medication provisions

I may indicate below any refusals for treatment with specific psychotropic medications, not to include an entire class of medications, due to factors that may include but are not limited to lack of efficacy, known drug sensitivity, or experience of adverse reaction:

I specifically do not consent and do not authorize my surrogate to consent to the administration of the following medications or their respective brand-name or generic equivalents for the reasons given:

Specific psychotropic medication Reason for refusal

____

____

____

____

I may list below any specific psychotropic medications that I would be willing to have administered to me if additional medications become necessary:

Specific psychotropic medications:

____

____

____

____

Electroconvulsive therapy provisions

Below are my instructions regarding electroconvulsive therapy (ECT):

____ I consent to electroconvulsive therapy (ECT) if it is deemed clinically appropriate to treat my condition.

____ I do not consent to electroconvulsive therapy (ECT).

Preferred procedures for emergency interventions

I may state preferences for procedures for emergency interventions to be used when necessary for my protection or the protection of others. I understand that I am requesting consideration of my preferences for procedures for emergency interventions but that my surrogate, my health care provider, and the health care facility where I am a patient are not subject to civil liability for not abiding by these preferences. I understand that in the case of possible harm to myself or others, my health care provider or the health care facility may need to use procedures that override my stated preferences. If during an admission or while a patient in a health care facility, it is determined that I am engaging in behavior that requires emergency intervention, my preferences regarding the procedures to be used during an emergency intervention and the order that I prefer the interventions to be used are as follows:

Intervention Order of preference Reason for this preference

Seclusion
Physical restraints
Seclusion and physical
restraint combined
Medication by injection
Medication in pill form
Liquid medication
Other:
Signed this day of , 20
Signature of grantor:
Address of grantor:

In my presence, the grantor voluntarily dated and signed this writing or directed it to be dated and signed. I am not the grantor's current health care provider, a relative of the current health care provider, or an owner, operator, employee or relative of an owner or operator of a health facility in which the grantor is a client or resident.

Signatures of witnesses:

Surrogate contact information (if designated):
Name:
Address:

Telephone:
Signed this day of , 20
Signature of surrogate:
Alternate surrogate contact information (if designated):
Name:
Address:

Telephone
Signed this day of , 20
Signature of alternate surrogate:

SECTION 7. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Kentucky Advance Directive for Mental Health Act.

The Committee Substitute to **HB 99** is as follows:

HB 99, AN ACT relating to an advance directive for mental health treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

(1) "Advance directive for mental health treatment" or "advance directive" means a written document, or a document in a form consistent with the provisions of the federal Americans with Disabilities Act (ADA), made voluntarily by a grantor in accordance with the provisions of Sections 1 to 7 of this Act that provides instructions for mental health treatment.

(2) "Grantor" means an adult eighteen (18) years of age or older whose right to make health care decisions or to execute legal documents has not been limited and who has executed an advance directive for mental health treatment.

(3) "Surrogate" means an adult who has not provided health care services to the grantor, who has been designated by the grantor to act, and who agrees to act on behalf of the grantor in accordance with Sections 1 to 7 of this Act. The term includes an alternate surrogate.

(4) "Procedures for emergency intervention" means the use of physical or chemical restraint or seclusion in an emergency situation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) An adult may execute an advance directive for mental health treatment that includes one (1) or more of the following:

(a) Refusal of specific psychotropic medications, but not an entire class of psychotropic medications. This refusal may be due to factors that include but are not limited to their lack of efficacy, known drug sensitivity, or previous experience of adverse reactions;

(b) Refusal of electric shock therapy (ECT);

(c) Stated preferences for psychotropic medications;

(d) Stated preferences for procedures for emergency interventions; and

(e) Provision of information in any area specified by the grantor.

(2) The execution of an advance directive shall be complete when signed by the grantor and:

(a) Signed by two (2) adult witnesses who attest that the grantor:

1. Is known to them;

2. Signed the advance directive in their presence; and

3. Did not appear to be under duress, fraud, or undue influence; or

(b) Acknowledged before a notary public or other person authorized to administer oaths.

(3) The following persons shall not serve as a witness, a notary public, or other person authorized to administer oaths to the signing of an advance directive:

(a) The grantor's current health care provider or a relative of the current health care provider; and

(b) An owner, operator, employee, or relative of an owner or operator of a health facility in which the grantor is a client or resident.

(4) An advance directive shall not override the grantor's right under federal and state law to refuse treatment.

(5) The grantor or the surrogate of the grantor shall be responsible for providing a copy of the advance directive to the grantor's health care provider and health care facility where the grantor is a patient.

(6) An advance directive for mental health treatment shall be honored in any setting, except a hospital emergency room or a hospital emergency department, that is required to honor advance directives under Title XVIII or Title XIX of the federal Social Security Act.

(7) A health care provider, health care facility, surrogate, or other responsible party shall not be subject to criminal prosecution or civil liability if acting in agreement with an advance directive for mental health treatment executed in accordance with Sections 1 to 7 of this Act or if acting in good faith without knowledge of the existence or revocation of an advance directive.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) A surrogate designated by a grantor in an advance directive for mental health treatment shall act on behalf of the grantor in accordance with the desires of the grantor as indicated in the advance directive and may override the advance directive only if there is substantial medical evidence that failing to do so would result in harm to the grantor.

(2) When acting on behalf of the grantor, the surrogate shall consider the recommendations of the health care provider and honor the decisions made by the grantor as expressed in the advance directive.

(3) If the grantor's instructions or preferences are not stated in the advance directive, the surrogate may act in good faith on behalf of the grantor in the manner that the surrogate believes the grantor would act.

(4) A surrogate may resign at any time by giving written notice to the grantor, to the immediate successor surrogate, if any, to the attending health care provider, or to the health care facility.

SECTION 4. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) A health care provider or health care facility shall provide mental health treatment that complies with the instructions in an advance directive to the fullest extent possible when the instructions are within standards for mental and physical health care and permitted by state and federal law.

(2) A health care provider or health care facility may override expressed refusals of treatment only if:

(a) A court order contradicts the advance directive; or

(b) There is an emergency endangering a person's life or posing a serious risk to physical health.

(3) Deviations from expressed preferences in an advance directive shall be documented by the health care provider or health care facility in the grantor's medical record.

(4) A health care provider or health care facility that refuses to comply with an advance directive of a grantor or a decision made by a surrogate shall:

(a) Immediately inform the grantor or surrogate, if one is designated, of the refusal; and

(b) Not impede the transfer of the grantor to another health care provider or health care facility.

SECTION 5. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An advance directive may be revoked by:

(1) A document that is signed and dated by the grantor and declares an intention to revoke;

(2) An oral statement of intent to revoke made by a grantor to a health care provider in the presence of some other person; or

(3) Destruction of the document by the grantor or by some person in the grantor's presence at the grantor's direction.

SECTION 6. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

An advance directive for mental health treatment shall be in substantially the following form:

"Advance directive for mental health treatment

I, ________, willfully and voluntarily execute this advance directive for mental health treatment. I want the instructions in this advance directive to be followed as described below.

Designated surrogate

____ I am naming a surrogate to see that my instructions for mental health treatment are carried out.

____ I am not naming a surrogate to see that my instructions for mental health treatment are carried out.

I designate ____________ to act as my surrogate. If this person withdraws or is unwilling to act on my behalf, or if I revoke that person's authority to act as my surrogate, I designate ____________ to act as my alternate surrogate.

If I do not designate a surrogate, if my surrogate and alternate surrogate withdraw or are unwilling to act on my behalf, or if I revoke their authority to act, then the health care provider and health care facility may proceed to render treatment in accordance with my instructions as described here and in accordance with standards for mental and physical health care.

The person acting as my surrogate is authorized to act in accordance with the content of this advance directive and may override the advance directive if, and only if, there is substantial medical evidence that failing to do so would result in harm to me. If my instructions and preferences are not stated in the advance directive, the surrogate may act in good faith in making treatment decisions in the manner in which the surrogate believes I would act.

Psychotropic medication provisions

I may indicate below any refusals of treatment with specific psychotropic medications, not to include an entire class of medications, due to factors that may include but are not limited to lack of efficacy, known drug sensitivity, or experience of adverse reaction:

I specifically do not consent and do not authorize my surrogate to consent to the administration of the following medications or their respective brand-name or generic equivalents for the reasons given:

Specific psychotropic medication ____________ Reason for refusal ____________

____

____

____

____

I may list below any specific psychotropic medications that I would be willing to have administered to me if additional medications become necessary:

Specific psychotropic medications:

____

____

____

____

Electroconvulsive therapy provisions

Below are my instructions regarding electroconvulsive therapy (ECT):

____ I consent to electroconvulsive therapy (ECT) if it is deemed clinically appropriate to treat my condition.

____ I do not consent to electroconvulsive therapy (ECT).

Preferred procedures for emergency interventions

I may state preferences for procedures for emergency interventions to be used when necessary for my protection or the protection of others. I understand that I am requesting consideration of my preferences for procedures for emergency interventions but that my surrogate, my health care provider, and the health care facility where I am a patient are not subject to civil liability for not abiding by these preferences. I understand that in the case of possible harm to myself or others, my health care provider or the health care facility may need to use procedures that override my stated preferences. If during an admission or while a patient in a health care facility, it is determined that I am engaging in behavior that requires emergency intervention, my preferences regarding the procedures to be used during an emergency intervention and the order that I prefer *the interventions to be used are as follows:*

Intervention	*Order of preference*	*Reason for this preference*
Seclusion		
Physical restraints		
Seclusion and physical restraint combined		
Medication by injection		
Medication in pill form		
Liquid medication		
Other:		

Signed this ____ day of ________, 20__
Signature of grantor: ____________________
Address of grantor: ____________________

In my presence, the grantor voluntarily dated and signed this writing or directed it to be dated and signed. I am not the grantor's current health care provider, a relative of the current health care provider, or an owner, operator, employee or relative of an owner or operator of a health facility in which the grantor is a client or resident.

Signatures of witnesses: ____________________

Surrogate contact information (if designated):
Name: ____________________
Address: ____________________
Telephone: ____________________
Signed this ____ day of ________, 20__
Signature of surrogate: ____________________
Alternate surrogate contact information (if designated):
Name: ____________________
Address: ____________________
Telephone ____________________
Signed this ____ day of ________, 20__
Signature of alternate surrogate: ____________________"

SECTION 7. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Kentucky Advance Directive for Mental Health Act.

HB 110, AN ACT relating to persons with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, "disabilities" means physical, mental, or alcohol or other drug impairments or disorders that substantially limit one or more of the major life activities of individuals.

(1) The General Assembly finds that many persons with disabilities and their families receive some level of support and services that are funded or administered by state agencies and that there are a number of state agencies, statewide commissions, and executive branch initiatives that have responsibility for the development and implementation of programs, services, and supports for persons with disabilities.

(2) The General Assembly recognizes that there are common needs and issues facing all persons with disabilities, and there are unique needs and issues facing persons with specific disabilities.

(3) The General Assembly finds that there is a need to share information and to coordinate efforts among state government entities that have responsibility for the development and implementation of programs, services, and supports for persons with disabilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

To ensure an appropriate and coordinated response from state government entities that have responsibility for programs, services, and supports for persons with disabilities, the secretary of the Governor's Executive Cabinet shall:

(1) Receive reports, recommendations, statements, and other written findings that relate to services to or programs for persons with disabilities from:
  (a) All agencies of the Governor's Executive and General Cabinets that have responsibility for programs, services, or supports for persons with disabilities;
  (b) Legislative or executive task forces, work groups, advisory councils, commissions, or similar entities that address issues facing persons with disabilities;
  (c) The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Disorders, and Dual Diagnoses;
  (d) The Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities; and
  (e) Other entities identified and so requested by the Governor.
(2) Report semi-annually in April and October to the Interim Joint Committee on Appropriations and Revenue and to the Interim Joint Committee on Health and Welfare of the Kentucky General Assembly. The report required by this subsection shall include but not be limited to the following:
  (a) A listing of all entities that submit reports, findings, or recommendations as required by subsection (1) of this section;
  (b) The common needs, issues, and recommendations contained in the reports required by subsection (1) of this section and executive branch plans or efforts to address common needs, issues, and recommendations;
  (c) Identification of any duplication of administrative duties or efforts among state government entities and executive branch plans or efforts to eliminate duplication;
  (d) Identification of funds and funding available for current programs, services, or supports and an estimate of annual funding needs; and
  (e) Recommendations for public policy relating to the common needs, issues, and recommendations identified in paragraph (b) of this subsection for consideration by the General Assembly.

HB 137, AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;
(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
(3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
  (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
  (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
(5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;
(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
  (a) The care, counsel, and health teaching of the ill, injured, or infirm;
  (b) The maintenance of health or prevention of illness of others;
  (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:
    1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
    2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;
4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
6. Instructing an individual regarding medications;

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

(8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing;

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;[~~ and~~]

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician***; and***

(20) "Clinical internship" means a supervised nursing practice experience which involves any or all components of direct patient care.

Section 2. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath***, that the applicant***:

(a) [~~That the applicant~~]Has completed the basic curriculum for preparing registered nurses in an approved school of nursing and has completed requirements for graduation therefrom;

(b) Has fulfilled the requirements of KRS 214.615(1); and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) An applicant shall be required to pass an examination in any subjects as the board may determine ***and complete the clinical internship in accordance with subsection (4) of this section***. Application for licensure by examination shall be received by the board at ***the***[~~such~~] time[~~ as~~] determined[~~ by regulation~~] by the board ***by administrative regulation***.

(3) Upon ***request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as requested by the board to substantiate this inability.***

(4) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (3) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish the standards and procedures applicable to the internship. The internship may be completed during a clinical orientation period in a practice setting.

(5) An individual who holds a provisional license shall have the right to use the title "registered nurse applicant" and the abbreviation "RNA." An RNA shall only work under the direct supervision of a registered nurse and shall not engage in independent nursing practice.

(6) Upon the applicant's successful completion of[~~successfully completing~~] all requirements for ***registered nurse*** licensure, the board may issue to the applicant a license to practice nursing as a registered nurse, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state.

(7)[~~(4)~~] The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the examination prescribed by the board or its equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice as a registered nurse in this state. ***An applicant who has not practiced as a registered nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.***

(8)[~~(5)~~] The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(9)[~~(6)~~] Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(10)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with regulations promulgated by the board in accordance with KRS Chapter 13A and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(11)[~~(8)~~] Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)[~~(9)~~] A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

(13) A graduate of an approved prelicensure registered nurse program, who has not successfully completed the licensure examination for registered nurses, shall be eligible for admission to the licensure examination for licensed practical nurses following successful completion of a board-approved practical nursing role delineation course. This course shall include content on the roles and responsibilities of a licensed practical nurse and direct supervised clinical instruction.

(14) A person who has completed a prelicensure registered nurse program and holds a current, active licensed practical nurse license from another jurisdiction may apply for licensure by endorsement as a licensed practical nurse in this state.

Section 3. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:

(a) Has fulfilled the requirements of KRS 214.615(1);

(b) Has completed the required educational program in practical nursing at an approved school of nursing and has completed requirements for graduation therefrom; and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(3) An applicant shall be required to pass an examination in any subjects the board may determine ***and compete the clinical internship in accordance with subsection (5) of this section***. Application for licensure by examination shall be received by the board at the time[~~ as~~] determined[~~ by regulation~~] by the board ***by administrative regulation***.

(4) ***Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as requested by the board to substantiate this inability.***

(5) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish the standards and procedures applicable to the internship. The internship may be completed during a clinical orientation period in a practice setting.

(6) An individual who holds a provisional license shall have the right to use the title "licensed practical nurse applicant" and the abbreviation "LPNA." An LPNA shall only work under the direct supervision of a nurse and shall not engage in independent nursing practice.

(7) Upon ***the applicant's successful completion of***[~~successfully completing~~] all requirements for ***licensed practical nurse*** licensure, the board may issue to the applicant a license to practice as a licensed practical nurse if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state.

(8)[~~(5)~~] The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the examination prescribed by the board or its equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state. ***An applicant who has not practiced as a licensed practical nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (5) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.***

(9)[~~(6)~~] Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(10)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with administrative regulations promulgated by the board in accordance with KRS Chapter 13A, and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.

(11)[~~(8)~~] Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)[~~(9)~~] A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 4. KRS 314.089 is amended to read as follows:

(1) The board's president or the president's designee may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.

(2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license.

(3) The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(4) The order of immediate temporary suspension shall remain in effect until either reconsidered or superseded by final disciplinary action by the board.[~~ In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.~~]

Section 5. KRS 314.091 is amended to read as follows:

(1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, credential holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

(b) Has been convicted of ***any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means, but is not limited to, pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime***[~~a misdemeanor or felony which involved fraud, deceit, a breach of trust, or physical harm or endangerment to others, acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing~~];

(c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

(d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

(f) Abuses use of controlled substances, prescription medications, or alcohol;

(g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;

(h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;

(i) Has a license or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

(j) Has violated any of the provisions of this chapter;

(k) Has violated any lawful order or directive previously entered by the board;

(l) Has violated any administrative regulation promulgated by the board; or

(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena

of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 6. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing; the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by[~~ examination or~~] endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement[~~ or, in the case of applications for licensure by examination, for no longer than six (6) months from the first day of the month following completion of the program of nursing requirements,~~] and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

[~~(6) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.~~

~~(7) Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board may be issued a temporary work permit.~~]

Section 7. KRS 314.109 is amended to read as follows:

Any person ***under the jurisdiction of***[~~licensed by~~] the board shall, within thirty (30) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction***, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol,*** in this or any other jurisdiction. Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.

Section 8. KRS 314.131 is amended to read as follows:

(1) The board shall meet at least annually and shall elect from its members a president and any other officers that it deems necessary. Nine members of the board including one (1) officer shall constitute a quorum at any meeting. The board is authorized to promulgate administrative regulations not inconsistent with the law and subject to the provisions of KRS Chapter 13A, as may be necessary to enable it to carry into effect the provisions of this chapter.

(2) The board shall approve programs of nursing and shall monitor compliance with standards for nurse competency under this chapter. It shall examine, license, and renew the license of duly-qualified applicants; determine notice of place and time of licensure examinations; approve providers of continuing education; administer continuing education requirements; issue advisory opinions or declaratory rulings dealing with the practice of nursing; register and designate those persons qualified to engage in advanced nursing practice; and it shall conduct administrative hearings in accordance with KRS Chapter 13B upon charges calling for discipline of a licensee and cause the prosecution of all persons violating any provisions of this chapter. It shall keep a record of all its proceedings and make an annual report to the Governor.

(3) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a nurse licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a nurse is falsely accused.

(4) The board and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

(5) The board shall employ a qualified person to serve as executive director to the board, and shall fix the compensation and define the duties of the executive director. It may employ other persons as may be necessary to carry on the work of the board.

(6)[~~The executive director shall have at least the qualifications for board members, and a master's degree in nursing or equivalent and shall have had at least two (2) years of experience in nursing administration immediately preceding the time of appointment.~~

~~(7)~~] Each member of the board shall receive, in addition to traveling, hotel, and other necessary expenses, one hundred fifty dollars ($150) for each day the member is actually engaged in the discharge of official duties.

(7)[~~(8)~~] The board may, in its discretion, purchase liability insurance for board and staff members against acts performed in good faith discharge of duties.

(8)[~~(9)~~] The board may, by administrative regulation issued pursuant to the provisions of KRS Chapter 13A, determine which disciplinary action records may be expunged. Any records which are expunged shall be exempt from disclosure under the Kentucky Open Records Law, KRS 61.870 to 61.884. The board shall not report its disciplinary actions for any purpose other than statistical.

(9)[~~(10)~~] The board may reimburse any person appointed by direction of the board to any committee, subcommittee, or task force created by the board for his or her travel and subsistence expenses as established through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

Section 9. The amendments to subsections (2) to (5) and (7) of Section 2 and subsections (3) to (6) and (8) of Section 3 of this Act shall take effect on January 1, 2005.

The Committee Substitute to **HB 137** is as follows:

HB 137, AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

  (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

  (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

  (a) The care, counsel, and health teaching of the ill, injured, or infirm;

  (b) The maintenance of health or prevention of illness of others;

  (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:

    1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;

    2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

    3. Intervening when emergency care is required as a result of drug therapy;

    4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications;

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

(8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing;

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;~~[and]~~

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician*; and*

(20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 2. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath*, that the applicant*:

(a) ~~[That the applicant]~~Has completed the basic curriculum for preparing registered nurses in an approved school of nursing and has completed requirements for graduation therefrom;

(b) Has fulfilled the requirements of KRS 214.615(1); and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) An applicant shall be required to pass an examination in any subjects as the board may determine *and complete the clinical internship in accordance with subsection (4) of this section*. Application for licensure by examination shall be received by the board at *the*~~[such]~~ time~~[as]~~ determined~~[by regulation]~~ by the board *by administrative regulation*.

(3) Upon *request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as requested by the board to substantiate this inability.*

(4) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (3) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish procedures applicable to the documentation of completion of the internship. The internship may be completed during a clinical orientation period in a practice setting.

(5) An individual who holds a provisional license shall have the right to use the title "registered nurse applicant" and the abbreviation "RNA." An RNA shall only work under the direct supervision of a registered nurse and shall not engage in independent nursing practice.

(6) Upon the applicant's successful completion of~~[successfully completing]~~ all requirements for *registered nurse* licensure, the board may issue to the applicant a license to practice nursing as a registered nurse, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state.

(7)~~[(4)]~~ The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the examination prescribed by the board or its equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice as a registered nurse in this state. *An applicant who has not practiced as a registered nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.*

(8)~~[(5)]~~ The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(9)~~[(6)]~~ Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(10)~~[(7)]~~ Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with regulations promulgated by the board in accordance with KRS Chapter 13A and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(11)~~[(8)]~~ Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)~~[(9)]~~ A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by

the board and as defined in this chapter.

(13) A graduate of an approved prelicensure registered nurse program, who has not successfully completed the licensure examination for registered nurses, shall be eligible for admission to the licensure examination for licensed practical nurses following successful completion of a board-approved practical nursing role delineation course. This course shall include content on the roles and responsibilities of a licensed practical nurse and direct supervised clinical instruction.

(14) A person who has completed a prelicensure registered nurse program and holds a current, active licensed practical nurse license from another jurisdiction may apply for licensure by endorsement as a licensed practical nurse in this state.

Section 3. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:

(a) Has fulfilled the requirements of KRS 214.615(1);

(b) Has completed the required educational program in practical nursing at an approved school of nursing and has completed requirements for graduation therefrom; and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(3) An applicant shall be required to pass an examination in any subjects the board may determine *and compete the clinical internship in accordance with subsection (5) of this section*. Application for licensure by examination shall be received by the board at the time[~~ as~~] determined[~~ by regulation~~] by the board *by administrative regulation*.

(4) *Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as requested by the board to substantiate this inability.*

(5) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish procedures applicable to the documentation of completion of the internship. The internship may be completed during a clinical orientation period in a practice setting.

(6) An individual who holds a provisional license shall have the right to use the title "licensed practical nurse applicant" and the abbreviation "LPNA." An LPNA shall only work under the direct supervision of a nurse and shall not engage in independent nursing practice.

(7) Upon *the applicant's successful completion of*[~~successfully completing~~] all requirements for *licensed practical nurse* licensure, the board may issue to the applicant a license to practice as a licensed practical nurse if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state.

(8)[~~(5)~~] The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the examination prescribed by the board or its equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state. *An applicant who has not practiced as a licensed practical nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (5) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.*

(9)[~~(6)~~] Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(10)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with administrative regulations promulgated by the board in accordance with KRS Chapter 13A, and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.

(11)[~~(8)~~] Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)[~~(9)~~] A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 4. KRS 314.089 is amended to read as follows:

(1) The board's president or the president's designee may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.

(2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license.

(3) The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(4) The order of immediate temporary suspension shall remain in effect until either reconsidered or superseded by final disciplinary action by the board.[~~ In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.~~]

Section 5. KRS 314.091 is amended to read as follows:

(1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, credential holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

  (a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

  (b) Has been convicted of ***any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means, but is not limited to, pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime***[~~a misdemeanor or felony which involved fraud, deceit, a breach of trust, or physical harm or endangerment to others, acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing~~];

  (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

  (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

  (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

  (f) Abuses use of controlled substances, prescription medications, or alcohol;

  (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;

  (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;

  (i) Has a license or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;

  (j) Has violated any of the provisions of this chapter;

  (k) Has violated any lawful order or directive previously entered by the board;

  (l) Has violated any administrative regulation promulgated by the board; or

  (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 6. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing; the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by[~~ examination or~~] endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement[~~ or, in the case of applications for licensure by examination, for no longer than six (6) months from the first day of the month following completion of the program of nursing requirements,~~] and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

[~~(6) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.~~

~~(7) Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board may be issued a temporary work permit.~~]

Section 7. KRS 314.109 is amended to read as follows:

Any person ***under the jurisdiction of***[~~licensed by~~] the board shall, within thirty (30) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction***, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol,*** in this or any other jurisdiction. Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.

Section 8. The amendments to subsections (2) to (5) and (7) of Section 2 and subsections (3) to (6) and (8) of Section 3 of this Act shall take effect on January 1, 2005.

HB 147, AN ACT relating to the long-term care ombudsman program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 216.537 TO 216.590 IS CREATED TO READ AS FOLLOWS:

(1) There shall be at least one (1) full-time long-term care ombudsman in each area development district.

(2) In addition to the requirement established in subsection (1) of this section, the Commonwealth shall fund additional ombudsman positions to achieve the goal of one (1) ombudsman for every two thousand (2,000) licensed long-term care facility beds in each area development district. These additional long-term care ombudsman positions shall be created as funding becomes available.

HB 272, AN ACT relating to emergency management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39A.287 is amended to read as follows:

The adjutant general, as executive head of the Department of Military Affairs and the Division of Emergency Management, utilizing federal funds and existing agency funds, shall:

(1) Establish and chair an interagency working group comprised of state and private agencies to help identify risks and needs and make a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;

(2) Collaborate with state and participating private agencies to submit a written preliminary report prior to December 31, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Seniors, Military Affairs, and Public Safety regarding the findings of the assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism;

(3) Develop and implement statewide strategies to respond to acts of war or terrorism, including nuclear, biological, chemical, agro, eco, electromagnetic pulse, or cyber terrorism based upon the information obtained in the needs assessment;

(4) Provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation and advice, or any other services needed to respond to these incidents; and

(5) ***Collaborate with the Commissioner of the Department for Public Health and other state agencies to*** annually assess and update the capability for readiness specified in this section ***and the public health areas listed in Section 2 of this Act***, subject to the continued availability of federal and agency funds. The assessment shall identify the priority of needs, areas of improvement, ***strategies to strengthen public health preparedness to respond to acts of terrorism,*** and the overall progress made in attaining the goals and needs identified in the initial study and in its annual report. The report shall be submitted to the parties specified in subsection (2) of this section ***and the Interim Joint Committee on Health and Welfare*** not later than December 31 of each year.

SECTION 2. A NEW SECTION OF KRS 211.005 TO 211.380 IS CREATED TO READ AS FOLLOWS:

The commissioner of the Department for Public Health shall:

(1) Collaborate with the Division of Emergency Management to complete that portion of the annual assessment required under Section 1 of this Act that relates to the preparedness of the Department for Public Health, local and state health departments, and health care providers to respond to acts of terrorism, including but not limited to acts that involve chemical, nuclear, or biological agents. Assessments shall include, but not be limited to, the following areas:

(a) Educational needs of the health care work force related to preparedness to respond to acts of terrorism;

(b) Readiness and adequacy of communication networks for receiving and broadcasting health alerts;

(c) Readiness of laboratories across the state to respond to acts of terrorism;

(d) Adequacy of surveillance activities and data collection and analysis in responding to acts of terrorism;

(e) Preparation for receiving, distributing, and administering items from the National Pharmaceutical Stockpile;

(f) Adequacy of reporting requirements of rare, unusual, or unexplained illnesses;

(g) Lines of communication used to report potential or actual acts of terrorism involving chemical, nuclear, or biological agents to the Federal Bureau of Investigation; and

(h) Information needed by the public to promote understanding, preparation, and vigilance in responding to any potential or actual threat of terrorism affecting health;

(2) Collaborate with the Division of Emergency Management to complete that portion of the annual report required under Section 1 of this Act that relates to the preparedness of the health care system to respond to acts of terrorism; and

(3) Use the annual assessments to strengthen public health strategies to respond to acts of terrorism.

HB 299, AN ACT relating to breast-feeding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky recognizes and hereby declares that breast-feeding a baby is an important and basic act of nurture. Breast-feeding can be a significant health and medical choice. Breast-feeding can be a major risk reducer for acute and chronic diseases for both baby and mother, including cancers, diabetes, and obesity. This section is enacted with the express legislative intention of encouraging mothers to breast-feed, to protect a mothers' right to breast-feed, and thereby to increase the rates and duration of breast-feeding.

(2) As used in this section, "department" means the Department for Public Health.

(3) A mother may breast-feed her baby in any location where the mother is otherwise authorized to be. Breast-feeding a child or display of the breasts or nipple as part of breast-feeding shall not be considered an act of public indecency and shall not be considered indecent exposure, sexual conduct, or obscenity.

(4) A breast-feeding mother who is faculty, staff, or student at a Kentucky public elementary or secondary school may breast-feed or express milk at the school in accordance with any policy established by that school council or principal.

(5) A business or agency may use the designation "breast-feeding friendly" in its promotional materials if the business or agency develops and implements a policy on workplace lactation support that includes, but is not limited to, the following:

(a) Work schedule flexibility, including scheduling breaks and work patterns to provide time for breast-feeding or expression of milk;

(b) The provision of accessible locations for breast-feeding or expression of milk that are convenient, sanitary, and private and are not restrooms;

(c) Access nearby to a clean, safe, water source, and a sink for washing hands and rinsing out any needed breast-pumping equipment; and

(d) Access to appropriate and secure storage for the mother's expressed breast milk.

(6) The department shall maintain a list of "breast-feeding friendly" businesses and agencies covered under this section and make the list available for public inspection.

(7) A state agency that administers a program providing maternal or child health services shall provide information that encourages breast-feeding to program participants who are pregnant women or mothers with babies.

(8) The department shall annually publish statistical information related to breast-feeding beginning in fiscal year 2004-2005.

HB 312, AN ACT relating to chiropractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 312.019 is amended to read as follows:

(1) The board shall administer the provisions of this chapter and the administrative regulations promulgated by the board relating to the practice of chiropractic.

(2) The board shall pass upon the qualifications of applicants for a license, certification, or registration to practice chiropractic. It shall examine, license, certify, register, and renew the license, certification, or registration of duly qualified applicants.

(3) The board may deny, revoke, ***limit, impose probationary conditions,*** refuse to renew, or suspend any license, certification, or registration issued by it.

(4) The board shall adopt a seal which shall be affixed to all licenses, certifications, and registrations issued by the board and to such other documents as the board deems necessary.

(5) The board shall regulate the practice of chiropractic by persons licensed or certified by it and shall enforce the provisions of this chapter and the administrative regulations of the board. The board may investigate violations and cause the prosecution of persons violating the provisions of this chapter or the administrative regulations promulgated by the board.

(6) The board may employ such personnel and incur such expenses as may be necessary for the performance of its duties and the enforcement of this chapter.

(7) The board may prescribe and collect reasonable fees for the issuance and renewal of licenses, certifications, and registrations and the administration of examinations as provided in KRS 312.095 and 312.175.

(8) The board may inspect at all reasonable times any chiropractic office or place where chiropractic services are performed ***and inspect chiropractic records, a copy of which may be obtained by the board, and question all persons***.

(9) The board may promulgate and from time to time amend administrative regulations, consistent with thc provisions of this chapter and in accordance with the provisions of KRS Chapter 13A, governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter and the proper performance of its duties, including but not limited to:

(a) A code of ethical conduct governing the practice of chiropractic;

(b) Requirements, standards, and examinations to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and certifications;

(c) Matters pertaining to the content and conduct of examinations;

(d) Matters pertaining to the operation and registration of chiropractic clinics;

(e) Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic;

(f) The type***,***~~[and]~~ character***, and location*** of postgraduate study to be done by any licensee in order to comply with the provisions of KRS 312.175;

(g) Regulation of forms of advertising or solicitation that are false, misleading, or deceptive or otherwise in violation of this chapter. The board may require a seventy-two (72) hour rescission period for consumers responding to certain forms of solicitation or advertising proposing or offering a series or course of treatments. The board may require that advertisements or solicitations stating coverage available from third-party payors include a conspicuous notice that persons may be required to submit to an independent evaluation which may result in a determination that the all or part of the services are unreasonable or unnecessary;

(h) Establishing a recommended course of pre-chiropractic education to be completed prior to entry into chiropractic college and the establishment of a preceptorship program for students enrolled in accredited chiropractic colleges that conform to KRS 312.085 to meet the standards of accreditation of the Council on Chiropractic Education.

(i) Registration and regulation of chiropractic management consultants operating in Kentucky. The board may impose annual registration fees not to exceed two hundred dollars ($200); and

(j) Establishing minimum standards for recordkeeping in chiropractic offices, the issuance of itemized statements, and requiring that any record or report include the name of the treating chiropractor.

(10) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a chiropractor licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if a chiropractor is falsely accused.

(11) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, the characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

Section 2. KRS 312.021 is amended to read as follows:

(1) No licensed doctor of chiropractic shall advertise or hold himself out to the public ***in any manner which is false, deceptive, misleading, or*** as being especially qualified ***or advanced*** in any branch of the practice of chiropractic except as certified by the board.

(2) The board shall identify by administrative regulation those specialties of the chiropractic for which certification may be granted and shall establish by administrative regulation the procedures for obtaining and maintaining such certification and the fees therefor.

Section 3. KRS 312.055 is amended to read as follows:

(1) The board shall elect from its members a president, vice-president, and ***a secretary or*** an executive secretary. The executive secretary shall receive an annual salary to be established by the board by promulgation of administrative regulations.

(2) Each member of the board shall receive his necessary traveling expenses and members other than the executive secretary shall receive a per diem not to exceed one hundred dollars ($100) for each day they actually spend in the discharge of their official duties.

Section 4. KRS 312.065 is amended to read as follows:

The board shall hold meetings at least annually~~[to examine applicants and]~~ for the transaction of business. ***A majority of the board shall constitute a quorum for the transaction of business.*** The State Property and Buildings Commission shall, at the request of the board, provide an office at the capitol where meetings may be held. The president of the board or a majority of its members may for necessary or appropriate cause call other meetings by transmitting prior written notice of the time and place set for the meeting to all board members.~~[Twenty (20) days notice shall be presumed to be reasonable.]~~

Section 5. KRS 312.085 is amended to read as follows:

(1) Any persons desiring to practice chiropractic in this state shall make application to the board,~~[through its executive secretary,]~~ in the form and~~[in the]~~ manner established by the board by the promulgation of administrative regulations~~[, at least thirty (30) days prior to any meeting held for examinations by the board]~~. Each applicant shall have satisfactorily completed not less than sixty (60) semester credit hours of study from a college or university accredited by the Southern Association of Colleges and ***Schools or other regional accrediting agencies as recognized by the United States Department of Education and the Council on Higher Education Accreditation, be***~~[Universities or an accrediting agency recognized by the Southern Association of Colleges and Universities or any successor to the powers of either and is]~~ a graduate of ***a***~~[an accredited chiropractic]~~ college ***or university*** accredited by the Council on Chiropractic Education or their successors, and which maintains a standard and reputability approved by the board***, and meet the requirements of KRS 214.610 and KRS 214.615***.

(2) The board may by administrative regulation ***require***~~[recommend]~~ a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by administrative regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under

the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.

(3) Applications shall be~~[made and]~~ signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational ***experience***~~[advantages, his experience in matters pertaining to knowledge of the care of the sick]~~, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation. No license shall be issued to any person convicted of a felony unless he has been pardoned ***and approved by the board***.

~~[(4) Application for examination may be made on or before September 1, 1992, by persons who, prior to March 1, 1992, had submitted application for licensure to the board and who graduated between the years 1976 and 1991, from a chiropractic college which on January 1, 1992, is accredited by a specialized accrediting agency recognized by the United States Office of Education. The board shall administer an appropriate licensing examination prior to November 1, 1992. Persons licensed under this subsection shall complete twenty-four (24) hours of continuing chiropractic education during the first year of their licensure.]~~

Section 6. KRS 312.095 is amended to read as follows:

There shall be paid to the~~[executive secretary of the]~~ board by each applicant at the time of his application for a license, a ***nonrefundable*** fee not to exceed ***four***~~[three]~~ hundred dollars ***($400)***~~[($300), which shall include the examination fee]~~.

Section 7. KRS 312.145 is amended to read as follows:

(1) ~~[All licenses issued by the board shall be in such form as the board may establish by promulgation of administrative regulations. Before]~~Any license~~[is]~~ issued by the board~~[, it]~~ shall be numbered~~[and properly recorded by the executive secretary]~~. The ***license***~~[record]~~ shall be open to public inspection, and in all actions or proceedings in any court, a transcript, or any part thereof, certified~~[by the executive secretary]~~ under the seal of the board to be a true copy, shall be entitled to admission in evidence.

(2) The board may at any time inquire into the identity of any person claiming to hold a license to practice chiropractic in the state, and after due service of a notice in writing, require him to prove to the satisfaction of the board that he is the person authorized to practice under the license by virtue of which he claims the privilege to practice in this state. When the board finds that a person claiming to be the holder of a license to practice in this state is not in fact the person to whom the license was issued, it shall reduce its findings to writing and file them in its office, and such findings shall be prima facie evidence that the claimant does not hold a license to practice in this state.

(3) Ownership or operation of a chiropractic facility within this state constitutes the practice of chiropractic requiring licensure~~[of the owner or operator]~~. A chiropractic facility using an assumed name shall include the name of the owner ***or operator***~~[and facility]~~, and either the word "chiropractic" or "chiropractors."

(4) ***By application and renewal, every chiropractor must annually provide the board with the name and address of each facility where the chiropractor practices. The chiropractor shall notify the board within ten (10) days of any change of address or change in practice location. All correspondence from the board shall be sent to the most recent address of record***~~[Chiropractic facilities utilizing chiropractors whose name is not used in the name of the facility shall register annually with the board and provide the name and address of the owner and the name and address of all doctors practicing in the facility. The board shall be notified within ten (10) days of any change. The board may establish by promulgation of administrative regulations an annual registration fee not to exceed two hundred fifty dollars ($250)]~~.

Section 8. KRS 312.150 is amended to read as follows:

(1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:

(a) That fraud***, misrepresentation, concealment of material facts,*** or deceit was used in ***obtaining or retaining***~~[securing]~~ the license;

(b) That the licensee no longer possesses a good moral character;

(c) That the licensee has been convicted of a felony or violation of any law involving moral turpitude;

(d) That the licensee ***solicits or advises patients utilizing false, deceptive, or misleading statements or information***~~[solicits patients through an agent]~~;

(e) That the licensee is ***impaired by***~~[addicted to the use of narcotic]~~ drugs or ***alcohol to the extent that it may affect the health, welfare, or safety of patients***~~[is a chronic alcoholic]~~;

(f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;

(g) That the licensee has violated any of the provisions of this chapter, or any of the administrative regulations of the board;

(h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175;~~[or]~~

(i) That the licensee failed to provide ***a complete copy of the patient's medical records or*** an itemized statement to the patient~~[immediately]~~ upon request***, pursuant to KRS 422.317, within ten (10) business days; or***

(j) That the chiropractor failed to provide notice of a change in address or change in the name and address of the facility where the chiropractor practices as required by KRS 312.145(4).

(2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

(a) Gross ignorance of, or incompetence in, the practice of chiropractic;

(b) Performing unnecessary services;

(c) Charging a patient an unconscionable fee or charging for services not rendered;

(d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment;

(e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal ***Medicaid and*** Medicare ***laws***~~[law]~~;

(f) Advertising that the licensee shall accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given;

(g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge; or

(h) Conviction of a misdemeanor offense under KRS Chapter 510 involving a patient while the patient was under the care of the chiropractor, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or the chiropractor having been found by the board to have had sexual contact as defined in KRS 510.010 with a patient while the patient was under the care of the chiropractor.

(3) Upon receipt and due consideration of any charges, the board upon an affirmative vote~~[of a majority of its members]~~ shall determine whether the nature and quality of the charges are such that further investigation or initiation of disciplinary proceedings against the charged licensee is indicated. ***If disciplinary proceedings are not warranted, the charges shall be dismissed with or without prejudice.*** If the board determines that disciplinary proceedings are appropriate***, the case may be resolved informally by agreed order or***~~[the charges shall be]~~ set~~[down]~~ for hearing to be conducted in accordance with KRS Chapter 13B.

(4) Except for revocation for nonrenewal, no license shall be revoked or suspended without ***an opportunity for*** a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation.~~[When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization and containing allegations that if true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.]~~

(5) If the board substantiates that sexual contact occurred between the chiropractor and a patient while the patient was under the care of or in a professional relationship with the chiropractor, the chiropractor's license may be revoked or suspended with mandatory treatment of the chiropractor as prescribed by the board. The board may require the chiropractor to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

SECTION 9. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

(1) Subpoenas for witnesses, whose evidence is deemed material to an investigation or hearing authorized by KRS 312.150 and this section, may be issued by the board or any officer of the board and under the seal of the board, commanding the witness to appear before the board at a time and place to be named, and to bring books, records, and documents that may be specified, or to submit books, records, and documents for inspection. Subpoenas may be served by any sheriff or deputy.

(2) When any witness who has been served with a subpoena fails or refuses to appear at the time and place named; or fails or refuses to answer any lawful question propounded; or fails to produce the books, records, or documents required; or

is guilty of disorderly or contumacious conduct at the hearing, the board may invoke the aid of the Franklin Circuit Court and any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in the state.

(3) Witnesses shall be entitled to the same fees and mileage as they may be entitled to by law for attending as witnesses in a Circuit Court.

(4) Witnesses who testify under subpoena shall be entitled to the same protection and immunities as witnesses in judicial proceedings.

Section 10. KRS 312.160 is amended to read as follows:

(1) Any ***licensed*** person ***who***[~~whose license~~] has been ***disciplined after a hearing***[~~revoked or suspended~~] shall have the right to appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B. If the person ***who***[~~whose license~~] has been ***disciplined***[~~revoked or suspended~~] fails to appeal ***within thirty (30) days after the final order is mailed or personally served***, the final order of the board shall be final.

(2) ***Any disciplinary matter shall be reported to the Healthcare Integrity and Protection Data Bank or to the board's authorized agent***[~~The action of the board shall be recorded in the same manner as licenses are recorded, and the name of the person whose license is revoked or suspended shall be stricken either indefinitely or for the period of the suspension from the list of license holders, and he shall be disqualified from practicing chiropractic in this state until the revocation or suspension is terminated~~].

Section 11. KRS 312.163 is amended to read as follows:

(1) In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing adjudges unqualified or whom the board, after a hearing, finds to have performed one (1) or more of the acts described in KRS 312.150:

(a) Revoke the license to practice;

(b) Suspend the license to practice[~~ for a period not to exceed three (3) years~~];

(c) Publicly reprimand or censure the person;

(d) Place the person on probation for a period and upon the terms and conditions that the board may establish[~~ by promulgation of administrative regulations~~];[~~ and~~]

(e) Require payment of all costs of proceedings resulting ***from***[~~in~~] the disciplinary action***; and***

(f) Limit the license to practice.

(2) The board may also impose a[~~ civil~~] penalty not exceeding ***five***[~~two~~] thousand dollars ***($5,000)***[~~($2,000)~~] for each separate violation[~~, the amount of the civil penalty to be fixed so as to deprive the doctor of chiropractic of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding~~].

(3) A licensee subject to any disciplinary proceeding under this chapter shall be afforded an administrative hearing conducted in accordance with KRS Chapter 13B and may appeal any final order of the board to the Franklin Circuit Court.

Section 12. KRS 312.175 is amended to read as follows:

(1) ***Each person***[~~After July 14, 1992, all persons~~] licensed to practice chiropractic in this state shall, on or before the first day of March, annually[~~ hereafter~~] renew his license and pay a renewal fee of not more than one hundred dollars ($100) for each ***inactive***[~~nonresident~~] licensee and not more than ***five***[~~two~~] hundred dollars ***($500)***[~~($200)~~] for each ***active***[~~resident~~] licensee each year to the board. In addition to the payment of the renewal fee, the ***active*** licensee[~~ so~~] applying for a license renewal shall furnish to the board satisfactory evidence that he has attended an educational program in the year preceding each application for renewal. Satisfactory evidence of attendance of postgraduate study at an institution approved by the board shall be considered equivalent. Any education shall include completion of the course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently. Provided, however, that licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program, or both, in instances where the applicant submits an affidavit to the board evidencing that he, for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.

(2) The[~~ executive secretary of the~~] board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least ***forty-five (45)***[~~thirty (30)~~] days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The ***board***[~~executive secretary~~] shall, within ***forty-five (45)***[~~thirty (30)~~] days, notify every person failing to renew his license after it is due that he is delinquent and is subject to a late penalty of ***three***[~~one~~] hundred dollars ***($300)***[~~($100)~~]. If the licensee fails to renew his license within ***forty-five (45)***[~~ninety (90)~~] days after the mailing of the delinquent notice then his license shall be revoked for nonrenewal. Any licensee whose license has been revoked for failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed ***five***[~~two~~] hundred dollars ***($500)***[~~($200)~~] for each delinquent year or any part thereof in addition to the renewal fee of not more than ***five***[~~three~~] hundred dollars ***($500)***[~~($300)~~] and upon presentation of satisfactory evidence of postgraduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this

section.[~~ Any licensee whose license has been revoked for more than four (4) years for failure to renew his license may have his license restored after satisfactorily passing the examination as provided in KRS 312.115 and upon payment of the regular application fee.~~]

(3) Any licensee whose license has been revoked for less that four (4) years, may not apply for a license pursuant to KRS 312.085. The licensee may only apply for restoration pursuant to subsection (2) of this section.

(4) Any licensee whose license has been revoked for more than four (4) years may apply for a license by examination, as long as the licensee pays a restoration fee not to exceed five hundred dollars ($500) for each delinquent year, or any part thereof, in addition to the renewal fee of not less than five hundred dollars ($500) and not more than three thousand dollars ($3,000).

Section 13. The following KRS section is repealed:

312.135 Filing license with county clerk.

HB 355, AN ACT relating to the protection of children placed in out-of-home care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.462 is amended to read as follows:

(1) ***Before an applicant is approved to provide foster care or relative caregiver services to a child, or to receive a child for adoption, the Cabinet for Families and Children may require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of State Police and the Federal Bureau of Investigation***[~~Before any applicant to provide foster care home services to a minor may be approved, the Cabinet for Families and Children shall request from the Justice Cabinet records of all conviction information for the applicant. The Justice Cabinet shall furnish the information to the Cabinet for Families and Children and shall also send a copy of the information to the applicant~~].

(2) ***During a certified adoptive or foster home's annual reevaluation, the Cabinet for Families and Children may require a criminal background investigation for each adult household member of the certified adoptive or foster home by means of a fingerprint check by the Department of State Police or Federal Bureau of Investigation***[~~The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request~~].

(3) The Cabinet for Families and Children shall promulgate an administrative regulation to implement this section.

The Committee Substitute to **HB 355** is as follows:

HB 355, AN ACT relating to the protection of children placed in out-of-home care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.462 is amended to read as follows:

(1) ***Before an applicant is approved to provide foster care or relative caregiver services to a child, or to receive a child for adoption, the Cabinet for Families and Children may require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of State Police or the Federal Bureau of Investigation, or both***[~~Before any applicant to provide foster care home services to a minor may be approved, the Cabinet for Families and Children shall request from the Justice Cabinet records of all conviction information for the applicant. The Justice Cabinet shall furnish the information to the Cabinet for Families and Children and shall also send a copy of the information to the applicant~~].

(2) ***During a certified adoptive or foster home's annual reevaluation, the Cabinet for Families and Children may require a criminal background investigation for each adult household member of the certified adoptive or foster home by means of a fingerprint check by the Department of State Police or Federal Bureau of Investigation, or both***[~~The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request~~].

(3) The Cabinet for Families and Children shall promulgate an administrative regulation to implement this section.

HCR 22, A CONCURRENT RESOLUTION reauthorizing the task force on quality long-term care for the purpose of studying methods to promote and enhance the provision of quality care in Kentucky's long-term care facilities.

WHEREAS, there are currently over 35,000 long-term care beds in Kentucky; and

WHEREAS, in fiscal year 1998-1999, the Kentucky Medical Assistance Program spent over $690,000,000 on long-term care services; and

WHEREAS, according to the Kentucky State Data Center, by 2020, the population over the age of 65 in Kentucky is estimated to grow to 717,607 which is an increase of 45%, as compared with only a 10% growth in Kentucky's total population;

and

WHEREAS, between 2010 and 2020 Kentucky's entire population growth will be in the 65-and-over category; and

WHEREAS, these stunning changes in our population will dramatically increase the need and demand for quality long-term care services; and

WHEREAS, the 2000 General Assembly authorized the creation of the quality long-term care task force, but much work remains to be accomplished; and

WHEREAS, Kentucky needs to continue its preparation for the challenges that will be presented in caring for this growing elderly population;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to reauthorize the task force on quality long-term care during 2003 and 2004 to study the issue of providing quality long-term care in Kentucky. The task force shall meet at least monthly, beginning not later than October 1, 2003, and shall report its findings and recommendations to the Legislative Research Commission and the Governor no later than September 1, 2004. The task force shall study methods to promote and enhance the quality of care provided in long-term care facilities in Kentucky, as well as in-home and community-based services, which shall include, but not be limited to:

(1) Wage pass-through programs to increase staff salaries;
(2) Enhancement of the ombudsman program statewide;
(3) Linkage of reimbursement to mandatory staff-to-patient ratios;
(4) Provision of additional training for facility staff;
(5) Mandatory staff-to-patient ratios;
(6) Assisted living facilities and other nonmedical socially oriented living arrangements in the community; and
(7) Noninstitutional services delivered in the home of the client including, but not limited to, the provision of home health, meals, housekeeping, and assistance with personal care.

Section 2. The task force shall consist of 28 members as follows:

(1) The Chair of the House Health and Welfare Committee;
(2) The Chair of the Senate Health and Welfare Committee;
(3) The Chair of the House Appropriations and Revenue Committee;
(4) The Chair of the Senate Appropriations and Revenue Committee;
(5) The Chair of the House Seniors, Military Affairs, and Public Safety Committee;
(6) The Secretary of the Cabinet for Health Services or the secretary's designee;
(7) The Secretary of the Cabinet for Families and Children or the secretary's designee;
(8) The Commissioner for the Department for Medicaid Services;
(9) The Director of the Division of Licensing and Regulations;
(10) The Kentucky State Long-Term Care Ombudsman;
(11) The Director of the Division of Aging Services;
(12) The Attorney General or the Attorney General's designee;
(13) Sixteen members appointed jointly by the President of the Senate and the Speaker of the House of Representatives, with one member representing each of the following interests:
    (a) The Kentucky Association of Health Care Facilities;
    (b) The Kentucky Association of Homes and Services for the Aging;
    (c) A representative of the Kentucky Coalition of the Alzheimer's Association;
    (d) The Kentucky Hospital Association;
    (e) The Kentucky Medical Association;
    (f) The Kentucky Nurses Association;
    (g) The Kentucky Home Health Association;
    (h) The Kentucky Hospice Association;
    (i) The American Association of Retired Persons;
    (j) The Kentucky Association of Gerontology;
    (k) The Kentucky Assisted Living Facilities Association;

(l) The Kentucky Adult Day Association;

(m) A district long-term care ombudsman;

(n) Two citizen members of the governance board of a district long-term care ombudsman program; and

(o) An area development district.

Section 3. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

Section 4. The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, or take any necessary steps to ensure a fair, thorough, and reasonable study of the issue. The task force shall be staffed by the Legislative Research Commission, and include at least one Legislative Research Commission staff economist.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Local Government reported **HB 50,** with Committee Substitute attached thereto, **HB 74, HB 158, HB 208,** with Committee Substitute attached thereto, **HB 229, HB 258, HB 283, HB 288, HB 298,** with Committee Substitute attached thereto, **HB 357,** with Committee Substitute attached thereto, and **HB 406** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 50, AN ACT relating to fire district boards of trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.031 is amended to read as follows:

(1) (a) Upon creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010, the affairs of the district shall be conducted by the board of trustees consisting of seven (7) members, four (4) to be elected by the members of the district as hereinafter set out and three (3) to be appointed by the county judge/executive or mayor in a consolidated local government pursuant to the provisions of KRS 67C.139. Two (2) members of the board of trustees shall be elected by the members of the firefighters of the district and shall be members of the district.~~[No more than one (1) of the two (2) firefighter trustees may be an employee of the fire protection district or volunteer fire department district.]~~ Two (2) members of the board of trustees shall be property owners who own real or personal property which is subject to the fire protection tax pursuant to KRS 75.040, who personally reside in the district, and who are not active firefighters and shall be elected by the property owners of the district. Property owners voting to select representatives to the board of trustees shall have attained the age of eighteen (18). The county judge/executive of the county in which the greater part of the district is located shall, with the approval of the fiscal court, appoint three (3) members of the board of trustees. In counties containing a city of the first class, trustees appointed by the county judge/executive to serve in volunteer fire prevention districts shall reside within the boundaries of that county. In counties governed by a consolidated local government, trustees appointed by the mayor to serve in volunteer fire prevention districts shall reside within the boundaries of the consolidated local government. At the first election held after the district is formed, one (1) firefighter shall be elected to serve on the board of trustees for a period of one (1) year and one (1) for a period of three (3) years, and one (1) nonfirefighter property owner shall be elected to serve on the board of trustees for a period of two (2) years and one (1) for a period of four (4) years. On the expiration of the respective terms, the successor to each shall have the same qualifications as his or her predecessor and shall be elected for a term of four (4) years. The original appointed members of the board of trustees shall be appointed for terms of one (1), two (2), and three (3) years respectively. On the expiration of the respective terms, the successors to each shall be appointed for a term of three (3) years. Upon the establishment of a consolidated local government, incumbent members shall continue to serve until the expiration of their current term of office. In the event of a vacancy in the term of an appointed or elected trustee, the county judge/executive shall appoint with the approval of the fiscal court a trustee for the remainder of the term, except in a county containing a consolidated local government. In a county containing a consolidated local government, the mayor pursuant to the provisions of KRS 67C.139 shall appoint a trustee for the remainder of the term.

(b) An appointed trustee may be removed from office as provided by KRS 65.007.

(c) No person shall be an elected trustee who, at the time of his or her election, is not a citizen of Kentucky and has not attained the age of twenty-one (21).

(d) Unless otherwise provided by law, an elected firefighter trustee may be removed from office by the mayor of a consolidated local government, or in a county not containing a consolidated local government, by the county judge/executive of the county in which the greater part of the district is located. An elected firefighter trustee may be removed after a hearing with notice as required by KRS Chapter 424, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The hearing shall be initiated and chaired by the county judge/executive of a county or the mayor of a consolidated local government, who shall prepare a written statement setting forth the reasons for removal. The trustee to be removed shall be notified of his or her proposed removal and the reasons for the proposed removal by registered mail sent to his or her last known address at least ten (10) days prior to the hearing. The person proposed to be removed may employ counsel to represent him or her. A record of the hearing shall be made by the county judge/executive or mayor respectively.

(e) The removal of an elected firefighter trustee of a fire protection district shall be subject to the approval of the fiscal court of the county in which the greater part of the district is located in those counties not containing a consolidated local government or the legislative council in a county containing a consolidated local government.

(f) An elected firefighter trustee removed pursuant to paragraphs (c) and (d) of this subsection may appeal, within ten (10) days of the rendering of the decision of the fiscal court or legislative council, respectively, to the Circuit Court of the county in which the greater part of the district is located. The scope of the appeal shall be limited to whether the county judge/executive, mayor, legislative council, or the fiscal court respectively, abused their discretion in removing the trustee.

(2) The elective offices of members of the board of trustees shall be filled by an election to be held once each year on the fourth Saturday of June between the hours of 11:00 a.m. and 2:00 p.m. The polls shall be located at the principal fire house in the district. The date, time, and place of the election shall be advertised in accordance with KRS 424.120. This notice shall be advertised at least thirty (30) days prior to the election date and shall include the names and addresses of the candidates to be voted on for each position of trustee. In lieu of the published notice for the election of the firefighter trustees, written notice containing the information required to be advertised may be sent by first-class mail to each member of the firefighters of the fire protection district or volunteer fire department district, addressed to the firefighter at his or her residence, at least thirty (30) days prior to the election date. The nominations for candidates for trustees both representing the firefighters and the property owners residing in the district shall be made in accordance with the bylaws of the department. The terms of the three (3) trustees appointed by the county judge/executive or mayor shall start at the same time as the terms of the elected trustees. On or before the beginning of the second fiscal or calendar year, depending on which basis the fire protection or volunteer fire department district is being operated, after June 16, 1966, all departments organized prior to June 16, 1966, shall increase their boards of trustees from three (3) to seven (7) members and elect the elective members in the manner set forth herein.

(3) The trustees shall elect from their number a chairman, a secretary, and a treasurer, the latter of whom shall give bond in an amount as shall be determined by the county judge/executive of the county in which the greater part of the fire protection district is located or the mayor in a consolidated local government, conditioned upon the faithful discharge of the duties of his or her office, and the faithful accounting for all funds which may come into his or her possession as treasurer. The premiums on the bonds shall be paid out of the funds of the district.

The Committee Substitute to **HB 50** is as follows:

HB 50, AN ACT relating to fire district boards of trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.031 is amended to read as follows:

(1) (a) Upon creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010, the affairs of the district shall be conducted by the board of trustees consisting of seven (7) members, four (4) to be elected by the members of the district as hereinafter set out and three (3) to be appointed by the county judge/executive or mayor in a consolidated local government pursuant to the provisions of KRS 67C.139. Two (2) members of the board of trustees shall be elected by the members of the firefighters of the district and shall be members of the district. No more than one (1) of the two (2) firefighter trustees may be an employee of the fire protection district or volunteer fire department district***, except when no volunteer firefighter seeks or accepts a board of trustees position***. Two (2) members of the board of trustees shall be property owners who own real or personal property which is subject to the fire protection tax pursuant to KRS 75.040, who personally reside in the district, and who are not active firefighters and shall be elected by the property owners of the district. Property owners voting to select representatives to the board of trustees shall have attained the age of eighteen (18). The county judge/executive of the county in which the greater part of the district is located shall, with the approval of the fiscal court, appoint three (3) members of the board of trustees. In counties containing a city of the first class, trustees appointed by the county judge/executive to serve in volunteer fire prevention districts shall reside within the boundaries of that county. In counties governed by a consolidated local government, trustees appointed by the mayor to serve in volunteer fire prevention districts shall reside within the boundaries of the consolidated local government. At the first election held after the district is formed, one (1) firefighter shall be elected to serve on the board of trustees for a period of one (1) year and one (1) for a period of three (3) years, and one (1) nonfirefighter property owner shall be elected to serve on the board of trustees for a period of two (2) years and one (1) for a period of four (4) years. On the expiration of the respective terms, the successor to each shall have the same qualifications as his or her predecessor and shall be elected for a term of four (4) years. The original appointed members of the board of trustees shall be appointed for terms of one (1), two (2), and three (3) years respectively. On the expiration of the respective terms, the successors to each shall be appointed for a term of three (3) years.

Upon the establishment of a consolidated local government, incumbent members shall continue to serve until the expiration of their current term of office. In the event of a vacancy in the term of an appointed or elected trustee, the county judge/executive shall appoint with the approval of the fiscal court a trustee for the remainder of the term, except in a county containing a consolidated local government. In a county containing a consolidated local government, the mayor pursuant to the provisions of KRS 67C.139 shall appoint a trustee for the remainder of the term.

(b) An appointed trustee may be removed from office as provided by KRS 65.007.

(c) No person shall be an elected trustee who, at the time of his or her election, is not a citizen of Kentucky and has not attained the age of twenty-one (21).

(d) Unless otherwise provided by law, an elected firefighter trustee may be removed from office by the mayor of a consolidated local government, or in a county not containing a consolidated local government, by the county judge/executive of the county in which the greater part of the district is located. An elected firefighter trustee may be removed after a hearing with notice as required by KRS Chapter 424, for inefficiency, neglect of duty, malfeasance, or conflict of interest. The hearing shall be initiated and chaired by the county judge/executive of a county or the mayor of a consolidated local government, who shall prepare a written statement setting forth the reasons for removal. The trustee to be removed shall be notified of his or her proposed removal and the reasons for the proposed removal by registered mail sent to his or her last known address at least ten (10) days prior to the hearing. The person proposed to be removed may employ counsel to represent him or her. A record of the hearing shall be made by the county judge/executive or mayor respectively.

(e) The removal of an elected firefighter trustee of a fire protection district shall be subject to the approval of the fiscal court of the county in which the greater part of the district is located in those counties not containing a consolidated local government or the legislative council in a county containing a consolidated local government.

(f) An elected firefighter trustee removed pursuant to paragraphs (c) and (d) of this subsection may appeal, within ten (10) days of the rendering of the decision of the fiscal court or legislative council, respectively, to the Circuit Court of the county in which the greater part of the district is located. The scope of the appeal shall be limited to whether the county judge/executive, mayor, legislative council, or the fiscal court respectively, abused their discretion in removing the trustee.

(2) The elective offices of members of the board of trustees shall be filled by an election to be held once each year on the fourth Saturday of June between the hours of 11:00 a.m. and 2:00 p.m. The polls shall be located at the principal fire house in the district. The date, time, and place of the election shall be advertised in accordance with KRS 424.120. This notice shall be advertised at least thirty (30) days prior to the election date and shall include the names and addresses of the candidates to be voted on for each position of trustee. In lieu of the published notice for the election of the firefighter trustees, written notice containing the information required to be advertised may be sent by first-class mail to each member of the firefighters of the fire protection district or volunteer fire department district, addressed to the firefighter at his or her residence, at least thirty (30) days prior to the election date. The nominations for candidates for trustees both representing the firefighters and the property owners residing in the district shall be made in accordance with the bylaws of the department. The terms of the three (3) trustees appointed by the county judge/executive or mayor shall start at the same time as the terms of the elected trustees. On or before the beginning of the second fiscal or calendar year, depending on which basis the fire protection or volunteer fire department district is being operated, after June 16, 1966, all departments organized prior to June 16, 1966, shall increase their boards of trustees from three (3) to seven (7) members and elect the elective members in the manner set forth herein.

(3) The trustees shall elect from their number a chairman, a secretary, and a treasurer, the latter of whom shall give bond in an amount as shall be determined by the county judge/executive of the county in which the greater part of the fire protection district is located or the mayor in a consolidated local government, conditioned upon the faithful discharge of the duties of his or her office, and the faithful accounting for all funds which may come into his or her possession as treasurer. The premiums on the bonds shall be paid out of the funds of the district.

HB 74, AN ACT relating to the insurance premium tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

 (a) Casualty;

 (b) Automobile;

 (c) Inland marine;

 (d) Fire and allied perils;

 (e) Health; and

 (f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

(13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

(14) No license fee or tax imposed under this section shall apply to premiums paid to insurers of municipal bonds, leases, or other debt instruments issued by or on behalf of a city, county, charter county government, urban-county government, consolidated local government, special district, nonprofit corporation, or other political subdivision of the Commonwealth of Kentucky.

HB 158, AN ACT relating to county finances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.

(2) In counties containing a city of the first class, an urban-county form of government, or a consolidated local government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class, by the legislative body in counties containing an urban-county form of government, or by the legislative council in a consolidated local government. This approval shall be signed by the county judge/executive in a county containing a city of the first class, the executive authority in a county having an urban-county form of government, or the mayor in a consolidated local government. Approval by the fiscal court, urban-county legislative body, or legislative council of a consolidated local government under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties having a consolidated local government or containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month as fees or compensation for official duties and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class, an urban-county form of government, or a consolidated local government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class, by the legislative council in a consolidated local government, and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class, the executive authority in a county having an urban-county form of government, or the mayor in a consolidated local government. Approval by the fiscal court, urban-county legislative body, or legislative council of a consolidated local government under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(6) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after

the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

(7) The Office of the Controller shall recognize the amount allowed for necessary office expenses of each officer under subsection (2) of this section as the official budget for the office. The Office of the Controller shall use professional judgment in creating the appropriate fund and account structure to ensure that the offices do not exceed annual approved budgetary amounts or expend more than the resources available for the term of office.

HB 208, AN ACT relating to the annexation of a city of the fifth class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.530 is amended to read as follows:

(1) When a city of the third, fourth, or fifth class and a city of the ***fifth or*** sixth class have a common boundary, and it is determined by the legislative body of the city of the ***fifth or*** sixth class and of the adjoining city of the third, fourth, or fifth class that the entire area of the city of the ***fifth or*** sixth class can be better served by the adjoining city, the entire area of the city of the ***fifth or*** sixth class may be annexed to the adjoining city and the city of the ***fifth or*** sixth class dissolved after the enactment of identical ordinances by each legislative body according to the provisions of this section.

(2) The ordinances declaring the annexation of the city of the ***fifth or*** sixth class by the adjoining city shall include, but not be limited to, the following:

(a) A statement of the financial consideration, if any, between the two (2) cities regarding the area of the city of the ***fifth or*** sixth class ***being annexed*** and the terms of any financial arrangements;

(b) The resolution of any taxes or revenues from the area of the city of the ***fifth or*** sixth class ***being annexed***;

(c) A statement of the land use or the zoning regulations that would be applicable to the area of the city of the ***fifth or*** sixth class ***being annexed*** if planning and zoning is in effect pursuant to KRS Chapter 100 in either city; and

(d) The date that the annexation of the city of the ***fifth or*** sixth class by the adjoining city would be effective, which shall not be more than one (1) year after the date on which the last of the identical ordinances is adopted.

(3) In order for the annexation to be completed, either of the following procedures shall be followed and concluded:

(a) Prior to the effective date of the annexation of the area of the city of the ***fifth or*** sixth class ***being annexed*** into the adjoining city, a petition in support of the annexation, containing a number of signatures of residents in the area of the city of the ***fifth or*** sixth class ***being annexed*** that is not less than fifty-one percent (51%) of the number of registered voters in the area of the city of the ***fifth or*** sixth class, shall be submitted to the county clerk of the county in which the city of the ***fifth or*** sixth class ***being annexed*** is located. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition; or

(b) An election shall be held to determine the desire of the voters in the city of the ***fifth or*** sixth class ***being annexed***. An election shall be held at a regular election. The qualifications of voters and all other matters in regard to the election shall be governed by the general election laws. The question shall be submitted in substantially the following form: "Are you in favor of annexing the city of .... into the city of .... and dissolving the city of ....? Yes.......... No...........".

(4) If the requisite number of signatures is verified by the county clerk as provided in subsection (3)(a) of this section, or if a majority of the legal votes cast at the election in the city of the ***fifth or*** sixth class proposing to be annexed favors the annexation, the annexation shall proceed and become effective, and the city of the ***fifth or*** sixth class shall be dissolved at the date provided in the identical ordinances adopted by the legislative bodies of the city of the ***fifth or*** sixth class and of the adjoining city upon the enactment by the legislative body of the adjoining city of an ordinance accepting the annexation of the city of the ***fifth or*** sixth class.

(5) All assets of the city of the ***fifth or*** sixth class ***being annexed*** existing on the date of annexation shall become the property of the annexing city. Any indebtedness for which the city of the ***fifth or*** sixth class ***being annexed*** is liable on the date of annexation shall be assumed by the annexing city, so that after annexation the burden of taxation shall be uniform throughout the area of the two (2) cities.

(6) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.

(7) The authority for the annexation of the city of the ***fifth or*** sixth class shall be exclusive of the provisions of KRS 81A.440.

(8) In addition to other public notice requirements, the annexing city shall comply with the provisions of KRS 81A.470, but shall not be required to comply with the provisions of KRS 81A.475. The city clerk of the city of the ***fifth or*** sixth class shall, within sixty (60) days after the effective date of the dissolution of the city of the ***fifth or*** sixth class, give written notice of the dissolution and the date of the dissolution to the Secretary of State who shall properly index and file the notice and date as a permanent record in the secretary's office.

(9) The area of the city of the ***fifth or*** sixth class being annexed shall assume the local option status of the city by which it is being annexed.

The Committee Substitute to **HB 208** is as follows:

HB 208, AN ACT relating to the annexation of a city of the fifth class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.530 is amended to read as follows:

(1) When a city of the ***second,*** third, fourth, or fifth class and a city of the ***fifth or*** sixth class have a common boundary, and it is determined by the legislative body of the city of the ***fifth or*** sixth class and of the adjoining city of the ***second,*** third, fourth, or fifth class that the entire area of the city of the ***fifth or*** sixth class can be better served by the adjoining city, the entire area of the city of the ***fifth or*** sixth class may be ***merged into***[~~annexed to~~] the adjoining city and the ***merging*** city of the ***fifth or*** sixth class dissolved after the enactment of identical ordinances by each legislative body according to the provisions of this section.

(2) The ordinances declaring the ***merger***[~~annexation~~] of the city of the ***fifth or*** sixth class ***and***[~~by~~] the adjoining city shall include, but not be limited to, the following:

(a) A statement of the financial consideration, if any, between the two (2) cities regarding the area of the city of the ***fifth or*** sixth class ***being merged*** and the terms of any financial arrangements;

(b) The resolution of any taxes or revenues from the area of the city of the ***fifth or*** sixth class ***being merged***;

(c) A statement of the land use or the zoning regulations that would be applicable to the area of the city of the ***fifth or*** sixth class ***being merged*** if planning and zoning is in effect pursuant to KRS Chapter 100 in either city; and

(d) The date that the ***merger***[~~annexation~~] of the city of the ***fifth or*** sixth class ***and***[~~by~~] the adjoining city would be effective, which shall not be more than one (1) year after the date on which the last of the identical ordinances is adopted.

(3) In order for the ***merger***[~~annexation~~] to be completed, either of the following procedures shall be followed and concluded:

(a) Prior to the effective date of the ***merger***[~~annexation~~] of the area of the city of the ***fifth or*** sixth class ***being merged*** into the adjoining city, a petition in support of the ***merger***[~~annexation~~], containing a number of signatures of residents in the area of the city of the ***fifth or*** sixth class ***being merged*** that is not less than fifty-one percent (51%) of the number of registered voters in the area of the city of the ***fifth or*** sixth class, shall be submitted to the county clerk of the county in which the city of the ***fifth or*** sixth class ***being merged*** is located. The county clerk shall within ten (10) working days of receipt of the petition notify each city of the validity of each signature and address on the petition; or

(b) An election shall be held to determine the desire of the voters in the city of the ***fifth or*** sixth class ***being merged***. An election shall be held at a regular election. The qualifications of voters and all other matters in regard to the election shall be governed by the general election laws. The question shall be submitted in substantially the following form: "Are you in favor of ***merging***[~~annexing~~] the city of .... into the city of .... and dissolving the city of ....? Yes.......... No...........".

(4) If the requisite number of signatures is verified by the county clerk as provided in subsection (3)(a) of this section, or if a majority of the legal votes cast at the election in the city of the ***fifth or*** sixth class proposing to be ***merged***[~~annexed~~] favors the ***merger***[~~annexation~~], the ***merger***[~~annexation~~] shall proceed and become effective, and the city of the ***fifth or*** sixth class shall be dissolved at the date provided in the identical ordinances adopted by the legislative bodies of the city of the ***fifth or*** sixth class and of the adjoining city upon the enactment by the legislative body of the adjoining city of an ordinance accepting the ***merger***[~~annexation~~] of the city of the ***fifth or*** sixth class.

(5) All assets of the city of the ***fifth or*** sixth class ***being merged*** existing on the date of ***merger***[~~annexation~~] shall become the property of the ***remaining***[~~annexing~~] city. Any indebtedness for which the city of the ***fifth or*** sixth class ***being merged*** is liable on the date of ***merger***[~~annexation~~] shall be assumed by the ***remaining***[~~annexing~~] city, so that after ***merger***[~~annexation~~] the burden of taxation shall be uniform throughout the area of the two (2) cities.

(6) The enactment of ordinances by each city shall be pursuant to KRS 83A.060.

(7) The authority for the ***merger***[~~annexation~~] of the city of the ***fifth or*** sixth class shall be exclusive of the provisions of KRS 81A.440.

(8) In addition to other public notice requirements, the ***remaining***[~~annexing~~] city shall comply with the provisions of KRS 81A.470, but shall not be required to comply with the provisions of KRS 81A.475. The city clerk of the city of the ***fifth or*** sixth class shall, within sixty (60) days after the effective date of the dissolution of the city of the ***fifth or*** sixth class, give written notice of the dissolution and the date of the dissolution to the Secretary of State***,*** who shall properly index and file the notice and date as a permanent record in the secretary's office.

(9) The area of the city of the ***fifth or*** sixth class being ***merged***[~~annexed~~] shall assume the local option status of the city ***into***[~~by~~] which it is being ***merged***[~~annexed~~].

HB 229, AN ACT relating to the taxing authority of emergency services boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.670 is amended to read as follows:

(1) (a) In order to ensure the delivery of adequate services to the community or communities, the emergency services board may levy an ad valorem tax not to exceed ten cents ($0.10) per one hundred dollars ($100) of the assessed valuation of all property in the district. ***The emergency services board may levy this ad valorem tax on the property of each taxpayer served by each district whose board is merged into the emergency services board.*** The emergency services board ad valorem tax shall be collected by the sheriff of each member county in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected; and

(b) The emergency services board may, in addition to the ad valorem tax in paragraph (a) of this subsection, charge fees necessary to further defray the costs of its operation.

(2) Tax and license fee revenues derived from this section shall be used only for the services described in KRS 65.660 or 65.662.

(3) The assets and liabilities of the special districts under the jurisdiction of the emergency services board shall be maintained separately, but shall be managed by the emergency services board.

HB 258, AN ACT relating to advertisements for bids.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than twenty thousand dollars ($20,000) without first making newspaper ***or Internet*** advertisement for bids.

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than twenty thousand dollars ($20,000), the fiscal court requirement shall prevail.

(3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of Material and Procurement Services or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.

(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.

(4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

(5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

HB 283, AN ACT authorizing public university safety and security officers to aid law enforcement agencies in another county and specifying conditions therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.007 is amended to read as follows:

(1) A policeman directly employed as a full-time police officer by a Kentucky city, county, or urban-county government***, or as a safety and security officer employed by a state or public university pursuant to KRS 164.950,*** and whose department

meets the requirements of KRS *15.380*[~~15.440~~] and a sheriff or full-time deputy sheriff who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest in the requesting county as he possesses in the county in which he is a police officer.

(2) The provisions of this section shall not:

(a) Authorize assistance in any labor dispute or strike;

(b) Authorize assistance by a constable or deputy constable;

(c) Authorize assistance by a special local peace officer;[~~ or~~]

(d) Authorize assistance by a special deputy sheriff*; or*

(e) Authorize assistance by a safety and security officer employed by a state or public university when the president of the university has not given prior permission in writing for the safety and security department of the university to participate in the program authorized by subsection (1) of this section.

HB 288, AN ACT relating to the identification of certified volunteer firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Fire Protection Personnel Standards and Education shall implement a statewide certified volunteer firefighter identification program. The program shall issue a color photo nondriver's identification card to all certified volunteer firefighters. The purpose of this identification card shall be solely as proof of a volunteer firefighter's claim to be a certified volunteer firefighter upon joining a volunteer fire department.

(2) (a) Application for a certified volunteer firefighter identification card or renewal of the identification card shall be on forms provided by the commission and accompanied by a statement from the commission that the applicant is a certified volunteer firefighter.

(b) The card shall contain the certified volunteer firefighter's name, the firefighter's birth date, and address. The card shall not contain the certified volunteer firefighter's Social Security number.

(c) The commission shall set a four dollar ($4) fee for the certified volunteer firefighter identification card and the renewal of this card. Two dollars ($2) of the fee shall be used to cover the commission's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks.

(d) The card shall expire every year on the certified volunteer firefighter's birthday.

(3) The descriptive data and a photo image of the certified volunteer firefighter shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(4) The commission shall establish policies, procedures, and forms for both the application and the identification card by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

HB 298, AN ACT relating to local government employment procedures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

All counties, urban-counties, charter counties, consolidated local governments, andcities shall comply with all state and federal laws that prohibit discrimination on the basis of disability in employment to ensure that candidates who have disabilities are given an equal opportunity for employment by local governments. Compliance shall include but not be limited to making reasonable modifications to policies, practices, and procedures for the testing and interviewing of candidates with disabilities. Reasonable accommodations may include providing any available examination preparation materials to candidates with disabilities and allowing candidates who need additional time to complete an examination to do so. Local government employers shall, at the time of application for employment, provide verbal notice to candidates of the availability of necessary accommodations.

The Committee Substitute to **HB 298** is as follows:

HB 298, AN ACT relating to local government employment procedures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

All counties, urban-counties, charter counties, consolidated local governments, and cities shall comply with all state and federal laws that prohibit discrimination on the basis of disability in employment to ensure that candidates who have disabilities are given an equal opportunity for employment by local governments. Compliance shall include but not be limited to making reasonable modifications to policies, practices, and procedures for the testing and interviewing of candidates with disabilities, including learning disabilities such as attention deficit disorder. Reasonable accommodations may include providing any available examination preparation materials to candidates with disabilities and allowing candidates who need additional time to complete an examination to do so. The General Assembly finds that every individual life is of immeasurable worth, not only to God who created that life, but also to the Commonwealth of Kentucky. Furthermore, the General Assembly encourages local government employers at the time of application for employment to provide verbal notice to candidates of the availability of extra time for completing tests and other necessary accommodations for those candidates with disabilities.

HB 357, AN ACT relating to water commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.420 is amended to read as follows:

As used in KRS 74.420 to 74.520, unless the context requires otherwise:

(1) "Sources of supply of water" means and includes any or all of the following: wells, impounding reservoirs, standpipes, storage tanks, pumps, machinery, purification plants, softening apparatus, trunk mains, and all other appurtenances useful in connection with developing and furnishing a supply of water under pressure into the water distribution systems of the cities,[~~or~~] water districts***, water associations or federal agencies*** which are represented by a commission created pursuant to the provisions of KRS 74.420 to 74.520.

(2) "Water association" means a nonprofit corporation formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273.

Section 2. KRS 74.430 is amended to read as follows:

In the interest of the public health and for the purpose of providing an adequate supply of water to cities, water associations,[~~and~~] water districts, ***and facilities owned or operated by federal agencies,*** any two (2) or more cities, or any two (2) or more water districts organized under this chapter, or any combination of cities, water districts,[~~and~~] water associations***, and federal agencies*** may jointly acquire, either by purchase or construction, sources of supply of water and may operate jointly the sources of supply of water and improve and extend them in the manner provided in KRS 74.420 to 74.520. The governing body of any city, water association,[~~or~~] water district***, or federal agency*** desiring to avail themselves of the provisions of KRS 74.420 to 74.520 shall adopt a resolution or ordinance determining and electing to acquire and operate jointly sources of supply of water.

Section 3. KRS 74.440 is amended to read as follows:

(1) Upon the adoption of an ordinance or resolution by the governing body of each city, water association, or water district, ***or upon a decision by a federal agency,*** a certified copy of it shall be filed with the county judge/executive of the county in which the cities, water associations,[~~or~~] water districts***, or federal agencies*** proposing the creation of the commission having the greatest aggregate population are situated; and upon the filing, the county judge/executive shall by appropriate order set a date for a public hearing on the creation of the commission and shall give reasonable notice of the public hearing, which notice may be given in the manner as provided by KRS Chapter 424. Any customer of the water systems or resident of the cities proposing the creation of the commission may file objections; and at the public hearing if the county judge/executive finds that the establishment of the commission is reasonably necessary or advantageous for the public health, convenience, and comfort of the customers of all the water systems which proposed the creation of the commission, he shall make an order establishing the commission and designating it by name which name shall include the words "water commission."

(2) If the county judge/executive does not find that the creation of a commission is reasonably necessary or advantageous, he shall make an appropriate order in this regard. Any party in interest may appeal the order to the Circuit Court or the cities, water associations, and water districts may revise and readopt the ordinances or resolutions***, or the federal agency may revise its decision***.

Section 4. KRS 74.450 is amended to read as follows:

(1) After the county judge/executive has made an order creating a water commission, the presiding officer of each of the cities, water associations, or water districts which proposed the creation of the commission with the approval of its governing body***, and each federal agency which joined in a proposal*** shall appoint one (1) commissioner. If the number of commissioners so appointed by the presiding officers of the cities, water associations, or water districts ***and by the federal agency or agencies*** shall equal or exceed five (5), no further commissioners shall be appointed and the commissioners

shall be and constitute the water commission.

(2) If the number of commissioners appointed by the presiding officers of the cities, water associations, or water districts shall be less than five (5), the county judge/executive who entered the order creating the commission shall appoint additional commissioners to the commission as necessary to make the number of commissioners equal five (5). The commissioners shall constitute the commission, which shall be a public corporation and a public body corporate and politic with the powers and duties specified in KRS 74.420 to 74.520. The commission may in its corporate name contract and be contracted with, sue and be sued, adopt and alter at its pleasure a corporate seal, and purchase, own, hold, and dispose of all real and personal property necessary for carrying out its corporate purpose under KRS 74.420 to 74.520.

(3) The commissioners originally appointed shall meet and select by lot their respective terms of office so that approximately one-third (1/3) of the commissioners shall serve for a term of two (2) years, a like number for a term of three (3) years and the remaining commissioner or commissioners for a term of four (4) years. The terms shall be deemed to commence from the first day of the month during which the order of the county judge/executive creating the commission was entered.

(4) Upon the expiration of the term of office of each of the commissioners, a successor shall be appointed to succeed him for a term of four (4) years and the appointment shall be made in the same manner as the original appointment.

(5) Each commissioner shall serve until his successor has been appointed and has been qualified. Each commissioner shall be a resident of the service area of the water systems ***or an employee of the federal agency*** which ***is***[~~are~~] represented by the commission. A commissioner shall be eligible for reappointment upon the expiration of his term. A vacancy shall be filled for the balance of the unexpired term in the same manner as that prescribed for the appointment of the person who has ceased to hold office. Each commissioner shall receive the same compensation, which shall not be more than five hundred dollars ($500) per year, to be fixed by the commission and to be paid out of commission funds***, except that a commissioner representing a federal agency shall serve without compensation***. Each commissioner shall furnish a bond for faithful performance of his official duties. This bond shall not be less than five thousand dollars ($5,000); the amount shall be fixed by the commission; and its cost shall be paid by the commission.

(6) Each commissioner may be removed by the official by whom he was appointed, for cause, after hearing by the appointing official and after at least ten (10) days' notice in writing has been given to the commissioner, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the appointing official shall be final and removal results in vacancy in the office. ***A federal agency shall determine its own appointment and removal procedures for its representative.***

Section 5. KRS 74.460 is amended to read as follows:

The commission shall organize by appointing a chairman from its own members and a secretary and a treasurer, who need not be commissioners. The secretary shall keep a record of all proceedings of the commission which shall be available for inspection as other public records. The treasurer shall be the lawful custodian of all funds of the commission and shall pay same out on orders authorized or approved by the commission. The secretary and treasurer shall perform other duties appertaining to the affairs of the commission and shall receive the salaries prescribed by the commission, and either or both may be required to furnish bonds in sums to be fixed by the commission for the use and benefit of the commission. The commission shall adopt its own rules of procedure and provide for its meetings. The commission shall have full and complete supervision, management, and control of the sources of supply of water as provided in the ordinances or resolutions for acquiring and operating them, and in their maintenance, operation, and extension. The commission may contract with cities, water associations,[~~ or~~] water districts***, or federal agencies*** which are represented by the commission for furnishing a supply of water to the parties for a period not exceeding fifty (50) years and the governing bodies of the cities, water associations,[~~ or~~] water districts***, or federal agencies*** may enter into the contracts with the commission. For the purpose of acquiring all or any part of its sources of supply of water, the commission may purchase from cities, water associations,[~~ or~~] water districts***, or federal agencies*** which are represented by the commission for mutually agreed terms without regard to actual value any sources of supply of water separate and apart from the water distribution systems of the parties; and the cities, water associations,[~~ or~~] water districts***, or federal agencies*** may convey the sources of supply of water to the commission without any election or voter approval notwithstanding any provision of any other law to the contrary. If any city, water association, or water district has outstanding any obligations which by their terms are in any manner payable from the revenues of their waterworks distribution system, the proceeds received from any conveyance shall be sufficient to retire all of the outstanding obligations, including all interest accrued and to accrue thereon to the date of retirement thereof; and the proceeds when received shall be set aside in a special fund and used for that purpose. The commission may appoint or contract for the services of officers, agents, and employees, including engineers, attorneys, accountants, fiscal agents, and other professional persons, prescribe their duties, and fix their compensation.

Section 6. KRS 74.470 is amended to read as follows:

For the purpose of acquiring, either by purchase or construction, sources of supply of water or for making improvements and extensions to sources of supply of water, a commission may issue revenue bonds payable solely from the revenues to be derived pursuant to water supply contracts with the cities, water districts, water associations, ***federal agencies,*** political subdivisions, or other public bodies as provided in KRS 74.420 to 74.520. For that purpose the commission may issue revenue bonds and be vested with all of the powers, duties, and responsibilities, including the power of condemnation, delegated and granted to a "governmental agency" under the terms and provisions of KRS Chapter 58, as the law now exists or as it may hereafter be amended. Under the law, the term "governmental agency" means the "commission" and the term "public project" means "sources of supply of water."

Section 7. KRS 74.480 is amended to read as follows:

(1) When a commission has been created, the cities, water associations,[~~or~~] water districts***, or federal agencies*** represented by the commission shall contract with the commission for water and the contracts may provide that the sources of supply of water of the commission shall be the exclusive water supply for the respective water distribution systems. These cities, water associations, or water districts shall establish charges and rates for water supplied by them to consumers sufficient at all times:

(a) To pay the principal of and interest on all outstanding obligations of the cities, water associations, or water districts which by their terms are payable in any manner from the revenues of their respective waterworks distribution systems; and

(b) To pay the cost of operation and maintenance of their respective waterworks distribution systems, including the payments to be made to the commission pursuant to contracts for the purchase of water by those cities, water associations, or water districts.

(2) The commission shall establish charges and rates for water supplied to those cities, water associations,[~~or~~] water districts***, or federal agencies*** represented by the commission sufficient at all times:

(a) To pay the principal of and interest on the revenue bonds issued by the commission under the provisions of KRS 74.420 to 74.520;

(b) To pay the cost of operation and maintenance of the sources of supply of water; and

(c) To provide an adequate fund for renewals, replacements, and reserves.

Contracts entered into between the commission and the cities, water associations, or water districts shall include covenants for the establishment of rates and charges as provided in this section.

Section 8. KRS 74.490 is amended to read as follows:

The commission shall also have the right to supply water to any city, water association, water district, political subdivision, ***federal agency*** or other public body, or any water distribution system regulated by the Public Service Commission, in addition to the cities, water associations,[~~or~~] water districts***, or federal agencies*** which are represented by the commission, upon the payments, terms, and conditions mutually agreed upon. No capital expenditures shall be made by the commission for the purpose of furnishing water to the other party or parties. Any contract entered into to supply water to a city, water association, water district, ***federal agency,*** political subdivision, or other public body shall provide that payments to be made thereunder shall be solely from the revenues to be derived by the city, ***water association,*** water district, political subdivision, or other public body from the operation of the water works distribution system thereof; and the contract shall be a continuing, valid, and binding obligation of the city, ***water association, federal agency,*** water district, political subdivision, or other public body, payable from the revenues for a period of years, not to exceed fifty (50), as provided in the contract. Any contract shall not be a debt of any city, water association, water district, ***federal agency,*** political subdivision, or other public body within the meaning of any statutory or constitutional limitations.

Section 9. KRS 74.510 is amended to read as follows:

Since the activities of a commission created pursuant to KRS 74.420 to 74.520 are limited to the supply of water under contract to cities***, federal agencies,*** or to water distribution systems which are regulated by the Public Service Commission, including water districts and water associations, as provided in KRS 74.420 to 74.520, and such a commission has no authority to supply water to individual private consumers, such a commission shall not be deemed to constitute a "utility" or "person" within the meaning and application of KRS Chapter 278 and a commission shall not be subject to the jurisdiction of the Public Service Commission.

The Committee Substitute to **HB 357** is as follows:

HB 357, AN ACT relating to water commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.420 is amended to read as follows:

As used in KRS 74.420 to 74.520, unless the context requires otherwise:

(1) "Sources of supply of water" means and includes any or all of the following: wells, impounding reservoirs, standpipes, storage tanks, pumps, machinery, purification plants, softening apparatus, trunk mains, and all other appurtenances useful in connection with developing and furnishing a supply of water under pressure into the water distribution systems of the cities,[~~or~~] water districts***, water associations or federal agencies*** which are represented by a commission created pursuant to the provisions of KRS 74.420 to 74.520.

(2) "Water association" means a nonprofit corporation formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273.

Section 2. KRS 74.430 is amended to read as follows:

In the interest of the public health and for the purpose of providing an adequate supply of water to cities, water associations,[~~and~~]

water districts, ***and facilities owned or operated by federal agencies,*** any two (2) or more cities, or any two (2) or more water districts organized under this chapter, or any combination of cities, water districts,[~~ and~~] water associations***, and federal agencies*** may jointly acquire, either by purchase or construction, sources of supply of water and may operate jointly the sources of supply of water and improve and extend them in the manner provided in KRS 74.420 to 74.520. The governing body of any city, water association,[~~ or~~] water district***, or federal agency*** desiring to avail themselves of the provisions of KRS 74.420 to 74.520 shall adopt a resolution or ordinance determining and electing to acquire and operate jointly sources of supply of water.

Section 3. KRS 74.440 is amended to read as follows:

(1) Upon the adoption of an ordinance or resolution by the governing body of each city, water association, or water district, ***or upon a decision by a federal agency,*** a certified copy of it shall be filed with the county judge/executive of the county in which the cities, water associations,[~~ or~~] water districts***, or federal agencies*** proposing the creation of the commission having the greatest aggregate population are situated; and upon the filing, the county judge/executive shall by appropriate order set a date for a public hearing on the creation of the commission and shall give reasonable notice of the public hearing, which notice may be given in the manner as provided by KRS Chapter 424. Any customer of the water systems or resident of the cities proposing the creation of the commission may file objections; and at the public hearing if the county judge/executive finds that the establishment of the commission is reasonably necessary or advantageous for the public health, convenience, and comfort of the customers of all the water systems which proposed the creation of the commission, he shall make an order establishing the commission and designating it by name which name shall include the words "water commission."

(2) If the county judge/executive does not find that the creation of a commission is reasonably necessary or advantageous, he shall make an appropriate order in this regard. Any party in interest may appeal the order to the Circuit Court or the cities, water associations, and water districts may revise and readopt the ordinances or resolutions***, or the federal agency may revise its decision***.

Section 4. KRS 74.450 is amended to read as follows:

(1) After the county judge/executive has made an order creating a water commission, the presiding officer of each of the cities, water associations, or water districts which proposed the creation of the commission with the approval of its governing body***, and each federal agency which joined in a proposal*** shall appoint one (1) commissioner. If the number of commissioners so appointed by the presiding officers of the cities, water associations, or water districts ***and by the federal agency or agencies*** shall equal or exceed five (5), no further commissioners shall be appointed and the commissioners shall be and constitute the water commission.

(2) If the number of commissioners appointed by the presiding officers of the cities, water associations,[~~ or~~] water districts***, or federal agencies*** shall be less than five (5), the county judge/executive who entered the order creating the commission shall appoint additional commissioners to the commission as necessary to make the number of commissioners equal five (5). The commissioners shall constitute the commission, which shall be a public corporation and a public body corporate and politic with the powers and duties specified in KRS 74.420 to 74.520. The commission may in its corporate name contract and be contracted with, sue and be sued, adopt and alter at its pleasure a corporate seal, and purchase, own, hold, and dispose of all real and personal property necessary for carrying out its corporate purpose under KRS 74.420 to 74.520.

(3) The commissioners originally appointed shall meet and select by lot their respective terms of office so that approximately one-third (1/3) of the commissioners shall serve for a term of two (2) years, a like number for a term of three (3) years and the remaining commissioner or commissioners for a term of four (4) years. The terms shall be deemed to commence from the first day of the month during which the order of the county judge/executive creating the commission was entered.

(4) Upon the expiration of the term of office of each of the commissioners, a successor shall be appointed to succeed him for a term of four (4) years and the appointment shall be made in the same manner as the original appointment.

(5) Each commissioner shall serve until his successor has been appointed and has been qualified. Each commissioner shall be a resident of the service area of the water systems ***or an employee of the federal agency*** which ***is***[~~are~~] represented by the commission. A commissioner shall be eligible for reappointment upon the expiration of his term. A vacancy shall be filled for the balance of the unexpired term in the same manner as that prescribed for the appointment of the person who has ceased to hold office. Each commissioner shall receive the same compensation, which shall not be more than five hundred dollars ($500) per year, to be fixed by the commission and to be paid out of commission funds***, except that a commissioner representing a federal agency shall serve without compensation***. Each commissioner shall furnish a bond for faithful performance of his official duties. This bond shall not be less than five thousand dollars ($5,000); the amount shall be fixed by the commission; and its cost shall be paid by the commission.

(6) Each commissioner may be removed by the official by whom he was appointed, for cause, after hearing by the appointing official and after at least ten (10) days' notice in writing has been given to the commissioner, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the appointing official shall be final and removal results in vacancy in the office. ***A federal agency shall determine its own appointment and removal procedures for its representative.***

Section 5. KRS 74.460 is amended to read as follows:

The commission shall organize by appointing a chairman from its own members and a secretary and a treasurer, who need not be commissioners. The secretary shall keep a record of all proceedings of the commission which shall be available for inspection as other public records. The treasurer shall be the lawful custodian of all funds of the commission and shall pay same out on orders authorized or approved by the commission. The secretary and treasurer shall perform other duties appertaining to the affairs of the commission and shall receive the salaries prescribed by the commission, and either or both may be required to furnish bonds in sums to be fixed by the commission for the use and benefit of the commission. The commission shall adopt its own rules of procedure and provide for its meetings. The commission shall have full and complete supervision, management, and control of the sources of supply of water as provided in the ordinances or resolutions for acquiring and operating them, and in their maintenance, operation, and extension. The commission may contract with cities, water associations,[~~ or~~] water districts***, or federal agencies*** which are represented by the commission for furnishing a supply of water to the parties for a period not exceeding fifty (50) years and the governing bodies of the cities, water associations,[~~ or~~] water districts***, or federal agencies*** may enter into the contracts with the commission. For the purpose of acquiring all or any part of its sources of supply of water, the commission may purchase from cities, water associations,[~~ or~~] water districts***, or federal agencies*** which are represented by the commission for mutually agreed terms without regard to actual value any sources of supply of water separate and apart from the water distribution systems of the parties; and the cities, water associations,[~~ or~~] water districts***, or federal agencies*** may convey the sources of supply of water to the commission without any election or voter approval notwithstanding any provision of any other law to the contrary. If any city, water association, or water district has outstanding any obligations which by their terms are in any manner payable from the revenues of their waterworks distribution system, the proceeds received from any conveyance shall be sufficient to retire all of the outstanding obligations, including all interest accrued and to accrue thereon to the date of retirement thereof; and the proceeds when received shall be set aside in a special fund and used for that purpose. The commission may appoint or contract for the services of officers, agents, and employees, including engineers, attorneys, accountants, fiscal agents, and other professional persons, prescribe their duties, and fix their compensation.

Section 6. KRS 74.470 is amended to read as follows:

For the purpose of acquiring, either by purchase or construction, sources of supply of water or for making improvements and extensions to sources of supply of water, a commission may issue revenue bonds payable solely from the revenues to be derived pursuant to water supply contracts with the cities, water districts, water associations, ***federal agencies,*** political subdivisions, or other public bodies as provided in KRS 74.420 to 74.520. For that purpose the commission may issue revenue bonds and be vested with all of the powers, duties, and responsibilities, including the power of condemnation, delegated and granted to a "governmental agency" under the terms and provisions of KRS Chapter 58, as the law now exists or as it may hereafter be amended. Under the law, the term "governmental agency" means the "commission" and the term "public project" means "sources of supply of water."

Section 7. KRS 74.480 is amended to read as follows:

(1) When a commission has been created, the cities, water associations,[~~ or~~] water districts***, or federal agencies*** represented by the commission shall contract with the commission for water and the contracts may provide that the sources of supply of water of the commission shall be the exclusive water supply for the respective water distribution systems. These cities, water associations, or water districts shall establish charges and rates for water supplied by them to consumers sufficient at all times:

(a) To pay the principal of and interest on all outstanding obligations of the cities, water associations, or water districts which by their terms are payable in any manner from the revenues of their respective waterworks distribution systems; and

(b) To pay the cost of operation and maintenance of their respective waterworks distribution systems, including the payments to be made to the commission pursuant to contracts for the purchase of water by those cities, water associations, or water districts.

(2) The commission shall establish charges and rates for water supplied to those cities, water associations,[~~ or~~] water districts***, or federal agencies*** represented by the commission sufficient at all times:

(a) To pay the principal of and interest on the revenue bonds issued by the commission under the provisions of KRS 74.420 to 74.520;

(b) To pay the cost of operation and maintenance of the sources of supply of water; and

(c) To provide an adequate fund for renewals, replacements, and reserves.

Contracts entered into between the commission and the cities, water associations, or water districts shall include covenants for the establishment of rates and charges as provided in this section.

Section 8. KRS 74.490 is amended to read as follows:

The commission shall also have the right to supply water to any city, water association, water district, political subdivision, ***federal agency*** or other public body, or any water distribution system regulated by the Public Service Commission, in addition to the cities, water associations,[~~ or~~] water districts***, or federal agencies*** which are represented by the commission, upon the payments, terms, and conditions mutually agreed upon. No capital expenditures shall be made by the commission for the purpose of furnishing water to the other party or parties. Any contract entered into to supply water to a city, water association, water district, ***federal agency,*** political subdivision, or other public body shall provide that payments to be made thereunder shall be solely from the revenues to be derived by the city, ***water association,*** water district, political subdivision, or other public body from the operation of the water works distribution system thereof; and the contract shall be a continuing, valid, and binding obligation of the city, ***water association, federal agency,*** water district, political subdivision, or other public body, payable from the revenues for a period of years, not to exceed fifty (50), as provided in the contract. Any contract shall not be a debt of any city, water association, water district, ***federal agency,*** political subdivision, or other public body within the meaning of any statutory or constitutional limitations.

Section 9. KRS 74.510 is amended to read as follows:

Since the activities of a commission created pursuant to KRS 74.420 to 74.520 are limited to the supply of water under contract to cities***, federal agencies,*** or to water distribution systems which are regulated by the Public Service Commission, including water districts and water associations, as provided in KRS 74.420 to 74.520, and such a commission has no authority to supply water to individual private consumers, such a commission shall not be deemed to constitute a "utility" or "person" within the meaning and application of KRS Chapter 278 and a commission shall not be subject to the jurisdiction of the Public Service Commission.

HB 406, AN ACT relating to telecommunicators employed by local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.530 is amended to read as follows:

For the purposes of KRS 15.540 to 15.590***:***~~[,]~~

(1) "CJIS" means the Criminal Justice Information System;

(2) "CJIS-full access course" means a forty (40) hour training program approved by the Kentucky Law Enforcement Council;

(3) "CJIS telecommunicator" means any full-time public employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communications for an agency that utilizes the Criminal Justice Information System, and is part of or administered by the state or any political subdivision;

(4) "Commissioner" means the commissioner of the Department of Criminal Justice Training;

(5) "Law enforcement telecommunicator" means any full-time ***public*** employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communications for an agency ***that does not utilize the Criminal Justice Information System and***~~[which]~~ is part of or administered by the state or any political subdivision***;***

(6) "Law enforcement telecommunicator basic training program" means a forty (40) hour basic training program approved by the Kentucky Law Enforcement Council;

(7) "Non-CJIS telecommunicator academy" means a one hundred twenty (120) hour academy approved by the Kentucky Law Enforcement Council; and

(8) "Telecommunications academy" means a one hundred sixty (160) hour academy approved by the Kentucky Law Enforcement Council.

Section 2. KRS 15.560 is amended to read as follows:

(1) No person shall receive an official appointment on a permanent basis as a law enforcement telecommunicator~~[to any law enforcement agency in this state,]~~ unless ***the***~~[such]~~ person has previously been awarded a certificate by the ***commissioner***~~[secretary of justice]~~ attesting to such person's satisfactory completion of ***non-CJIS telecommunications academy***~~[an approved law enforcement telecommunicator basic training program]~~. Every person who is employed ***after the effective date of this Act***~~[, after July 15, 1986,]~~ as a law enforcement telecommunicator by any law enforcement agency in this state***, regardless of prior experience as a law enforcement telecommunicator,*** shall forfeit his ***or her*** position as such unless, within twelve (12) months from the date of his ***or her*** employment, he ***or she*** satisfactorily completes ***the non-CJIS telecommunications academy***~~[a basic training program]~~ and is awarded a certificate attesting thereto. The ***commissioner***~~[secretary of justice]~~ shall waive the training requirements listed in this section for all law enforcement ***telecommunicators***~~[radio dispatchers]~~ who ***are serving on the effective date of this Act and possess a certificate of completion of an approved law enforcement telecommunicator***~~[have served continuously for one (1) year immediately prior to July 15, 1986, and shall award each such law enforcement telecommunicator a certificate. Notwithstanding the above, any person employed on or after July 15, 1986, regardless of prior experience as a law enforcement telecommunicator shall successfully complete the]~~ basic training program.

(2) All ***law enforcement*** telecommunicators, whether originally employed before or after ***the effective date of this Act***~~[July 15, 1986]~~, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours***'*** duration at a school certified or recognized by the Kentucky Law Enforcement Council.

(3) In the event of extenuating circumstances beyond the control of a law enforcement telecommunicator that prevent completion of training within the time specified, the commissioner or the commissioner's designee may grant the law enforcement telecommunicator an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) No person shall receive an official appointment on a permanent basis as a CJIS telecommunicator unless that person

has previously been awarded a certificate by the commissioner attesting to that person's satisfactory completion of the telecommunications academy. Every person who is employed, after the effective date of this Act, as a CJIS telecommunicator shall forfeit his or her position as such unless, within six (6) months from the date of employment, that person satisfactorily completes the telecommunications academy and is awarded a certificate attesting thereto. The commissioner shall waive the training requirements listed in this section and award a CJIS telecommunicator certificate for all CJIS telecommunicators who are serving on the effective date of this Act and have successfully completed the CJIS-full access course.

(2) A law enforcement telecommunicator who gains employment as a CJIS telecommunicator shall successfully complete the CJIS-full access course within six (6) months from the date of his or her employment. A law enforcement telecommunicator whose employing agency initiates the use of CJIS shall successfully complete the CJIS-full access course within six (6) months from the date that the agency initiates the use of CJIS.

(3) All CJIS telecommunicators, whether originally employed before or after the effective date of this Act, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.

(4) All CJIS telecommunicators, whether originally employed before or after the effective date of this Act, shall successfully complete, every two (2) years, eight (8) hours of CJIS in-service training at a school certified or recognized by the Kentucky Law Enforcement Council.

(5) Extensions of time in which to complete the training specified in this section may be granted by the commissioner of the Department of State Police or the commissioner's designee.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 27,** with Committee Substitute attached thereto, **HB 56, HB 136,** with Committee Substitute attached thereto, **HB 319, HB 352, HB 353, HB 361,** with Committee Amendment attached thereto, **HB 362, HB 363,** and **HJR 116** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 27, AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:

(1) The members of the General Assembly shall severally receive from the State Treasury compensation for their services: Provided, No change shall take effect during the session at which it is made; nor shall a session occurring in odd-numbered years extend beyond March 30; nor shall a session of the General Assembly occurring in even-numbered years continue beyond sixty legislative days, nor shall it extend beyond April 15 *except as otherwise provided in this section*; these limitations as to length of sessions shall not apply to the Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day, exclusive of Sundays, legal holidays, or any day on which neither House meets.

(2) The General Assembly shall not adjourn a regular session occurring in an even-numbered year without the enactment of a bill or bills appropriating moneys for the operation of the state government. If a bill or bills appropriating moneys for the operation of the state government have not been passed by the General Assembly on or before the sixtieth legislative day, the General Assembly shall continue in session until enactment of the appropriations bill or bills, but no other bill or resolution having the force and effect of law shall be considered after the sixtieth legislative day.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The question submitted to the voters shall read as follows: "Are you in favor of requiring the General Assembly to remain in regular session beyond sixty legislative days in even-numbered years until it passes a budget or budgets for the operation of the state government, and prohibiting the General Assembly from considering any other laws after the sixtieth legislative day?"

The Committee Substitute to **HB 27** is as follows:

HB 27, AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:

(1) The members of the General Assembly shall severally receive from the State Treasury compensation for their services: Provided, No change shall take effect during the session at which it is made; nor shall a session occurring in odd-numbered years extend beyond March 30; nor shall a session of the General Assembly occurring in even-numbered years continue beyond sixty

legislative days, nor shall it extend beyond April 15 *except as otherwise provided in this section*; these limitations as to length of sessions shall not apply to the Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day, exclusive of Sundays, legal holidays, or any day on which neither House meets.

(2) The General Assembly shall not adjourn a regular session occurring in an even-numbered year without the enactment of a bill or bills appropriating moneys for the operation of the state government. If a bill or bills appropriating moneys for the operation of state government have not been passed by the General Assembly on or before the sixtieth legislative day:

(a) The General Assembly shall continue in session until enactment of the appropriation bill or bills, but no other bill or resolution having the force and effect of law shall be considered after the sixtieth legislative day, except for budget memoranda; and

(b) The members of the General Assembly shall not receive compensation for their services after the sixtieth legislative day.

(3) In any session under subsection (2) of this section in which the General Assembly shall enact a bill or bills appropriating moneys for the operation of the state government after the sixtieth legislative day, the bill or bills shall be presented to the Governor in the manner provided for by Section 88 of this Constitution, and the General Assembly may reconvene for two days following any veto by the Governor under Section 88 of this Constitution for the purpose of reconsideration of the Governor's veto under Section 88 of this Constitution.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The question to be submitted to the voters shall read as follows: "Are you in favor of requiring the General Assembly to remain in regular session beyond sixty legislative days in even-numbered years until it passes a budget or budgets for the operation of state government, prohibiting the General Assembly from considering any other laws or receiving a legislative salary after the sixtieth legislative day, and permitting the General Assembly to reconvene for two days following a Governor's veto?"

HB 56, AN ACT relating to mayoral candidates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled. ***If two (2) candidates are tied for the second highest number of votes in a mayoral election, the names of those two (2) candidates, plus the name of the candidate receiving the highest number of votes, shall be placed upon the ballot.***

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

HB 136, AN ACT relating to independent candidates for office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for the office sought. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the~~[second]~~ Tuesday~~[in August]~~ before the day fixed by KRS Chapter 118 for holding a ***primary***~~[regular]~~ election for the office. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for nominations for the office. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office.
2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.
4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.
5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.
6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 2. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought***; however, petitions of nomination for independent candidates for office shall be filed with the county clerk not later than the Tuesday prior to the day fixed by law for the holding of primary elections for the offices sought***.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.

(5) Except as otherwise provided in this section, petitions of nomination***, including petitions of nomination of independent candidates filing to fill a vacancy under KRS 118.375,*** shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought***; however, petitions of nomination for independent candidates for office, except for those seeking to fill a vacancy under KRS 118.375, shall be filed with the Secretary of State or county clerk not later than the Tuesday prior to the day fixed by law for the holding of primary elections for the offices sought***. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought.

(6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the first Tuesday in September preceding the date fixed by law for the election of the electors.

(7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.

(8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

The Committee Substitute to **HB 136** is as follows:

HB 136, AN ACT relating to independent candidates for office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

- (a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for the office sought. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
- (b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the~~[second]~~ Tuesday~~[in August]~~ before the day fixed by KRS Chapter 118 for holding a ***primary***~~[regular]~~ election for the office. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
- (c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

- (a) A candidate for city office shall file his nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election for nominations for the office. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
- (b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:
    1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election for the office.
    2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
    3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.
    4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.
    5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 2. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought***; however, petitions of nomination for independent candidates for office shall be filed with the county clerk not later than the Tuesday prior to the day fixed by law for the holding of primary elections for the offices sought***.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.

(5) Except as otherwise provided in this section, petitions of nomination***, including petitions of nomination of independent candidates filing to fill a vacancy under KRS 118.375,*** shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought***; however, petitions of nomination for independent candidates for office, except for those seeking to fill a vacancy under KRS 118.375, shall be filed with the Secretary of State or county clerk not later than the Tuesday prior to the day fixed by law for the holding of primary elections for the offices sought***. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought.

(6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the first Tuesday in September preceding the date fixed by law for the election of the electors.

(7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.

(8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 3. Sections 1 and 2 of this Act take effect January 1, 2004

HB 319, AN ACT relating to replacement candidates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as

provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election made under KRS 118.215, because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election, and if that party's nominee was the only candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.

(5) If a vacancy occurs in the nomination of a candidate under the conditions of subsections (3) or (4) of this section after the certification of candidates for the regular election but not later than the second Thursday preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) ***business*** days after the vacancy occurs.

(6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265.

(7) This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections.

HB 352, AN ACT relating to candidates' nomination papers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.

(a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

"For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ------ Party, I, ------ (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; that I believe in the principles of the ------ Party, and intend to support its principles and policies; that I meet all the statutory and constitutional qualifications for the office which I am seeking; that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate~~[and by the two (2) voters making the declaration and signing the candidate's petition for office]~~.

(b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ------ Party, I, ------, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; and I, ------, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; that we believe in the principles of the ------ Party, and intend to support its principles and policies; that we meet all the statutory and constitutional qualifications for the offices which we are seeking; that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to before an officer authorized to administer an oath by the candidate~~[and by the two (2) voters making the declaration and signing the petition for office]~~.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 2. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election for the office. The petition shall be sworn to before an officer authorized to administer an oath by the candidate***. The petition shall be signed***~~[and]~~ by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. The petition shall include a declaration sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary election.

(5) Not later than the third Tuesday in February preceding the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

HB 353, AN ACT relating to candidates for office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.212 is amended to read as follows:

(1) If, before the time of certification of candidates who will appear on the ballot provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in writing, signed and properly notarized that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(2) If, after the certification of candidates who will appear on the ballot, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the clerk shall ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section.

(3) If, after the certification of candidates who will appear on the ballot, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section.

(4) If, after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall officially withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate***; and, if there is only one (1) remaining candidate on the ballot for that office in a primary election, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate, and the officer with whom the remaining candidate has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate and send a copy to the remaining candidate***.

(5) If, after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall officially withdraw or die, the county clerk shall provide a notice to the precinct election officers who shall see that the notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notice required by this subsection and the precinct officers fail to post the notice at the polling place, the precinct officers shall be guilty of a violation subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 2. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause

his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die*:*[~~,~~]

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate*;*[~~.~~]

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation*;*

(c) In a primary election, if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 3. KRS 83A.175 is amended to read as follows:

(1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary election pursuant to KRS 83A.045.

(2) Each candidate shall, not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing petitions of nomination with the county clerk as provided in KRS 83A.047, file a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(3) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(5) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(6) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die*:*[~~,~~]

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate;~~[.]~~

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation;

(c) If there is only one (1) remaining candidate on the ballot for that office in a primary election, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate, and the officer with whom the remaining candidate has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate and send a copy to the remaining candidate.

Section 4. KRS 118A.150 is amended to read as follows:

(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.

(2) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.

(3) No county clerk shall knowingly cause to be printed on the ballot labels or absentee ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.

(4) If, before the time of certification of candidates who will appear on the ballot provided for in this chapter, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(5) If, after the certification of candidates who will appear on the ballot, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall ensure that notice is provided to the appropriate precincts as provided in subsection (7) of this section.

(6) If after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate; ***and, in a primary election, if there are only one (1) or two (2) remaining candidates on the ballot for that office, following the withdrawal or death of the other candidate or candidates, neither the precinct election officers nor the county board of elections shall tabulate or record the votes for the remaining candidate or candidates, and the officer with whom the remaining candidate or candidates has filed his or her nomination papers shall immediately issue and file in his or her office a certificate of nomination for that remaining candidate or candidates and send a copy to the remaining candidate or candidates***.

(7) If, after the certification of candidates who will appear on the ballot, any candidate whose name appears on the ballot shall withdraw pursuant to KRS 118.212 or die, the county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation, subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

HB 361, AN ACT relating to provisional voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law to the contrary, the State Board of Elections shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A in order to establish a procedure for use on and after January 1, 2004, whereby a voter claiming to be properly registered but whose qualifications or entitlement to vote cannot be immediately established upon examination of the voter registration list for the precinct or whose eligibility to vote is otherwise challenged may vote a provisional ballot in conformity with the requirements of Section 302 of the Help America Vote Act of 2002, Pub. L. No. 107-252.

The Committee Amendment No. 1 to **HB 361** is as follows:

HB 361, On page 1, at line 8, by deleting the language "***for the precinct***".

HB 362, AN ACT relating to elections, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State, in conjunction with the Governor, shall prepare a state plan meeting the requirements of the Help America Vote Act of 2002, Pub. L. No. 107-252, for submission to the federal government.

(2) There is created within the general fund of the State Treasury the Election Reform fund, which is established for the purposes of carrying out election reform activities authorized by the Help America Vote Act. The fund shall consist of moneys appropriated to the fund by the General Assembly, federal funds provided under the Help America Vote Act, federal funds provided under any federal appropriations acts that are enacted to fund the Help America Vote Act, other amounts that may be appropriated by law, and any interest accruing thereon.

(3) The Secretary of State shall utilize the amounts in the Election Reform fund for the purposes of the Help America Vote Act.

Section 2. In order to implement the provisions of the Help America Vote Act and carry out the provisions of Section 1 of this Act, and to serve as the five percent (5%) state match for Kentucky's receipt of federal funds under the Help America Vote Act, there is appropriated from the general fund to the Election Reform fund established by Section 1 of this Act the sum of $2,100,000 in FY 2002-2003, and any funds unexpended by the Secretary of State from the Election Reform fund at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to Section 1 of this Act, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in Section 1 of this Act. For purposes of compliance with the Help America Vote Act, upon the receipt of federal funds provided by Title III of the Help America Vote Act, any amounts appropriated to the State Board of Elections to meet the requirements of Title III of the Help America Vote Act shall not be less than the sum of $1,303,100, which is the level of expenditures maintained by the Commonwealth for FY 1999-2000 for the administration of elections.

Section 3. Whereas the Help America Vote Act requires that states wishing to apply for federal funds in order to implement the provisions of the Act have an Election Reform fund established and have a state matching appropriation in place in order to qualify for federal funds, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 363, AN ACT relating to independent candidates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person ***whose registration status***[~~who~~] is ***as*** a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate ***whose registration status***[~~who~~] was ***as*** a registered member of a political party on ***January 1***[~~December 31~~] immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105***(7)***[~~(5)~~], for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for

every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

HJR 116, A JOINT RESOLUTION petitioning the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the government power of the state are derived; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that: "the judicial laws of God, as they were delivered to Moses be a rule to all courts in this jurisdiction"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution" emphasized its Biblical presuppositions: "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to remove the Bible from the public buildings: "We are spending less time in the classroom on the Bible which should be the principal text in our schools ..."; and

WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty if conscience and immunities of citizenship... May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared: "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports ..."; and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated: "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of the Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Savior, Jesus Christ"; and

WHEREAS, President John Quincy Adams, the sixth President of the United States, wrote concerning the civil function of the Mosaic law: "The law given from Sinai was a civil and municipal as well as a moral and religious code: it contained many statutes ...of universal application – laws essential to the existence of men in society and most of which have been enacted by every nation which ever professed any code of laws"; and

WHEREAS, in a June, 1778 letter to her son, John Quincy Adams, Abigail Adams reinforced noble values and a sense of ultimate accountability to God which she believed to be the foundation of true greatness: "Great learning and superior abilities, should you ever possess them, will be of little value and small estimation, unless virtue, honor, truth, and integrity are added to them. Adhere to those religious sentiments and principles which were early instilled into your mind, and remember that you are accountable to your Maker for all your words and actions"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision, which has never been overruled, cited sixty-six organic authorities which show the Bible's singular influence on America: "There is no dissonance in these declarations. There is a universal language pervading them all having one meaning: they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that 'no purpose of action against religion can be imputed any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation ... we find everywhere a clear recognition of the same truth ...this is a Christian nation'"; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English language, stated, "Moreover, the Bible does what is so invaluable in human life – it classifies moral values. It apprises us that men are not judged according to their wits, but according to their characters – that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude. How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character"; and "The Bible has had a critical impact upon the development of Western civilization. Western literature, art and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man – one affirming the dignity and worth of the human person, made in the image of our Creator – that inspired the principles upon which the United States is founded. President Jackson called the Bible 'the rock on which our republic rests' because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historical speeches of Abraham Lincoln and Dr. Martin Luther King, Jr. provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another"; and

WHEREAS, the First Amendment in the Bill of Rights states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances"; and

WHEREAS, recent court rulings have prevented the displaying of the Ten Commandments and have been the cause of the removal of these documents from public buildings; and

WHEREAS, eighty percent of the people are in favor of displaying the Ten Commandments in public places; and

WHEREAS, the General Assembly finds the Ten Commandments to be the precedent legal code of the Commonwealth which has provided the foundation for many of the civil and criminal statutes enacted into law throughout the history of the Commonwealth; and

WHEREAS, under Article V of the Constitution of the United States, Amendments to said Constitution may be proposed by the United States Congress whenever two-thirds of both chambers deem it necessary;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly of the Commonwealth of Kentucky, a majority of all members of the chambers voting separately to concur herein, hereby petitions the United States Congress to propose an Amendment to the Constitution of the United States, for submission to the several States for ratification, to allow the people of the United States and the several States the freedom to exercise their religion in public places.

Section 2. The text of the proposed Amendment to the Constitution of the United States should read substantially as follows:

"Nothing in the Constitution shall be construed to prohibit or otherwise limit the practice of individual or group prayer, the reading or the posting of the Ten Commandments, the recital of the Pledge of Allegiance, and the display of the motto 'In God We Trust' or similar phrases from historical documents referencing God in any public place, including a school; nor shall it require any person to join in prayer or other religious activity."

Section 3. Certified copies of this joint resolution shall be transmitted by the Secretary of State to the Administrator of General Services of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives of the United States, to each member of the Commonwealth's delegation to the Congress of the United States, and to the presiding officer of each house of each state legislature of the several States.

The Committee on Transportation reported **HB 11,** with Committee Substitute and Committee Amendment attached thereto, **HB 15, HB 36,** with Committee Substitute attached thereto, **HB 64, HB 114,** with Committee Amendment attached thereto, **HB 185, HB 239,** with Committee Substitute attached thereto, **HB 245, HB 255,** with Committee Substitute attached thereto, **HB 262, HB 292,** with Committee Substitute attached thereto, **HB 304, HB 310, HJR 78, HJR 90, HJR 94, HJR 97, HJR 110,** and **HJR 112,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 11, AN ACT relating to motor vehicles.

WHEREAS, undocumented Mexican nationals have, in large part, subsidized many sectors of the Commonwealth's economy; and

WHEREAS, employers and citizens alike, both inside and outside of the Commonwealth, are the beneficiaries of the cost savings to these industries; and

WHEREAS, undocumented Mexican nationals pay federal, state, and local taxes, including Social Security and Medicare but are not eligible for Social Security, Medicare, and most welfare benefits provided by federal, state, and local governments; and

WHEREAS, our great Nation has prospered on the shoulders of its immigrants since its creation; and

WHEREAS, undocumented Mexican nationals embody this spirit of our Nation and continue to give life to the American dream; and

WHEREAS, the government of the United States entered into the North American Free Trade Agreement with the governments of Mexico and Canada on January 1, 1994; and

WHEREAS, agreement on labor and immigration policies among the three countries has not achieved success parallel to that of trade; and

WHEREAS, not providing vehicle operator's licenses or nondriver's identification cards to undocumented Mexican nationals in the Commonwealth perpetuates and exacerbates the confusion in the state law enforcement community as to the correct identity of undocumented Mexican nationals, the growth of a black market for fraudulent documents, and the inability of undocumented Mexican nationals to access basic services such as opening a bank account, checking out a library book, or contracting for utilities services; and

WHEREAS, it is necessary to ensure the safety of the citizens and residents of the Commonwealth who travel on our roads and highways through driver training, testing, and licensing, and by mandating liability insurance coverage for those citizens and residents who operate motor vehicles;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.010 is amended to read as follows:

As used in this chapter, unless otherwise designated or otherwise required by the context:

(1) "Cabinet," as used in KRS 186.400 to 186.640, means the Transportation Cabinet; except as specifically designated, "cabinet," as used in KRS 186.020 to 186.270, means the Transportation Cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet," as used in KRS 186.020 to 186.270, means the Department of Vehicle Regulation when used with respect to commercial vehicles***;***~~[.]~~

(2) ***"Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers including the driver, motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060;***~~["Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic.]~~

(3) ***"Dealer" means any person engaging in the business of buying or selling motor vehicles;***~~["Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.]~~

(4) ***"Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license, or privilege, for the purpose of vehicular traffic;***~~["Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section.]~~

(5) ***"Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits;***~~["Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.]~~

(6) ***"Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles;***~~["Operator" means any person in actual control of a motor vehicle upon a highway.]~~

(7) ***"Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic***

centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

[~~(a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.~~

~~(b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.~~

~~(c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest.~~]

(8) *"Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in subsection (14)(a) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in subsection (14)(b) of this section, which are self-propelled. "Motor vehicle" shall not include a moped as defined in this section;*

[~~(a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.~~

~~(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.~~]

(9) *"Motorcycle" means any motor-driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more that three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section;*[~~KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.~~]

(10) *"Noncitizen" includes any of the following definitions of persons:*

(a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";

(b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service, to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;

(c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act";

(d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time"; and

(e) "North American national" means any person who is not included in paragraphs (a) to (d) of this subsection and who is a citizen in the countries of Mexico or Canada;[~~"Dealer" means any person engaging in the business of buying or selling motor vehicles.~~]

(11) *"Operator" means any person in actual control of a motor vehicle upon a highway;*[~~"Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, sidecar attachments, pickup trucks and passenger vans which are not being used for commercial or business purposes, and motor vehicles registered under KRS 186.060.~~]

(12) *(a) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest.*

(b) A vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to

possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(c) A licensed motor vehicle dealer who transfers physical possession of a motor vehicle to a purchaser pursuant to a bona fide sale, and complies with the requirements of KRS 186A.220, shall not be deemed the owner of that motor vehicle solely due to an assignment to his dealership or a certificate of title in the dealership's name. Rather, under these circumstances, ownership shall transfer upon delivery of the vehicle to the purchaser, subject to any applicable security interest;~~["Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima facie evidence that the operator is a resident of Kentucky.]~~

(13) ***"Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima facie evidence that the operator is a resident of Kentucky;***~~["Special status individual" means:~~

~~(a) "Asylee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "asylum status granted indefinitely pursuant to Section 208 of the Immigration & Nationality Act";~~

~~(b) "K-1 status" means the status of any person lawfully present in the United States who has been granted permission by the United States Department of Justice, Immigration and Naturalization Service to enter the United States for the purpose of marrying a United States citizen within ninety (90) days from the date of that entry;~~

~~(c) "Refugee" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "admitted as a refugee pursuant to Section 207 of the Immigration & Nationality Act"; and~~

~~(d) "Paroled in the Public Interest" means any person lawfully present in the United States who possesses an I-94 card issued by the United States Department of Justice, Immigration and Naturalization Service, on which it states "paroled pursuant to Section 212 of the Immigration & Nationality Act for an indefinite period of time."]~~

(14) ***(a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.***

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires; and~~["Instruction permit" includes both motor vehicle instruction permits and motorcycle instruction permits.]~~

(15) ***KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses***~~["Motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more that three (3) wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section]~~.

Section 2. KRS 186.412 is amended to read as follows:

(1) A person under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal ***individual taxpayer***~~[tax]~~ identification number, ***or, except for noncitizens with a North American national status,*** a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) [~~Other~~]Information necessary to permit the application of United States citizens to also serve as an application for voter registration***, if applicable***;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state ***or country***;

(i) Proof of the person's Kentucky residency***,*** including[~~,~~] but not limited to[~~,~~] a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information ***consistent with this chapter that*** the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, ***then*** the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) ***In addition to the requirements in subsection (2) of this section,*** the application form ***for noncitizens, except for noncitizens with a North American national status,*** shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit.

(b) In addition to requirements in paragraph (a) of this subsection, the application form ***for a noncitizen***[~~of a special status individual~~] with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form ***for a noncitizen***[~~of a special status individual~~] with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, ***then*** the Transportation Cabinet shall not be required to issue an operator's license.

(c) In addition to the requirements in subsection (2) of this section, the application form for a noncitizen with a North American national status shall be accompanied by an unexpired photo identification of the person issued by the national government of the North American country of the person's citizenship, such as a matricular consular card or a certificate of citizenship card.

(d)[~~(b)~~] The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, ***then*** the cabinet shall continue the review, but***, in all cases,*** the cabinet shall[~~ be required to~~] make a determination[~~ in all cases~~] within thirty (30) days of receipt of the application.

(e)[~~(c)~~] If the cabinet determines the person may be issued an operator's license, ***then*** the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, ***then*** the circuit clerk shall issue the person a Kentucky operator's license.

(f)[~~(d)~~] Except as provided in paragraphs ***(g)***[~~(e)~~] and ***(h)***[~~(f)~~] of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(g)[~~(e)~~] If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, ***or, if the person is a noncitizen with a North American national status who is renewing an operator's license or who is applying for a duplicate license after July 15, 2002, then*** the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(h)[~~(f)~~] If a person has any type of change in the person's immigration status, ***then*** the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information ***consistent with the public policy of the Commonwealth that*** the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number ***or federal taxpayer identification number***, or ***if*** the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, ***then*** the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make ***an*** oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident***,***[~~ and~~] who resides in the county***,*** who complies with the provisions of this section***,*** and who applies in person in the office of the circuit clerk. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, ***then*** the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, ***then*** the applicant shall swear that he or she has permission from the legal owner ***or the***[~~,~~] authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) ***Except as otherwise provided for in this paragraph,*** a nondriver's identification card shall be valid for a period of four (4) years from the date of issuance.[~~ Except as provided in this subsection,~~] An initial or renewal nondriver's identification card issued to a person who is not a United States citizen***,***[~~ and~~] who has not been granted status as a permanent resident of the United States***,*** and who is not a ***noncitizen***[~~special status individual~~], but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service***,*** is issued, or ***for*** four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a ***noncitizen***[~~special status individual~~] and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) ***In addition to any other penalties provided by law,*** a nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(8) A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, ***then*** the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the

Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth ***with a Class D operator's license is*** currently serving in the United States military ***and*** is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, ***then*** the citizen may renew ***that***[~~a Class D operator's~~] license issued under this section by mail. If the citizen was issued an "under 21" operator's license ***then***, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his ***or her*** operator's license to expire, ***then that citizen***[~~he~~] shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his ***or her*** license without having to take a written test or road test. ***Such*** a citizen who does not renew his ***or her*** license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the ***citizen***[~~person~~] is unable to renew the license on the date of his ***or her*** twenty-first birthday, ***then*** the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the ***citizen's***[~~person's~~] twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the ***licensee***[~~ owner of the license~~] may certify in the presence of two (2) witnesses his ***or her*** willingness to make an anatomical gift under KRS 311.195.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, ***then*** he ***or she*** may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 3. KRS 186.430 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person over the age of sixteen (16)[~~ who is a United States citizen and~~] who is not a resident of Kentucky may drive in Kentucky for a period of time not to exceed one (1) year from the date the person enters Kentucky if:

(a) The person possesses a valid license issued by the person's home state;

(b) The person has the license in his or her immediate possession at all times when operating a vehicle on the highways; and

(c) The person's home state accords similar privileges to licensed residents of Kentucky.

(2) A person[~~ who is a United States citizen but~~] who is not a resident of Kentucky ***and*** who is enrolled as a full-time or part-time student at a university, college, or technical college located in Kentucky may drive in Kentucky on a valid license issued by the person's state of domicile, and shall not be required to obtain a Kentucky operator's license under this chapter if the person has a student identification card from a university, college, or technical college located in Kentucky in his or her immediate possession at all times when driving in Kentucky.

(3) A person over the age of sixteen (16) who is not a United States citizen and who is legally visiting this country for less than one (1) year may drive in Kentucky on a valid domestic license issued ***in***[~~by~~] the person's country of domicile and shall not be required to obtain a Kentucky driver's license.

(4) A person over the age of sixteen (16) who is not a United States citizen, who has not been granted status as a permanent resident of the United States, but ***who*** is a resident of Kentucky, shall be issued a Kentucky operator's license if the person complies with the requirements of KRS 186.412.

(5) Except as ***otherwise*** provided ***for*** in this subsection, an operator's license issued to a person who is not a United States citizen, who has not been granted status as a permanent resident of the United States, and who is not a ***noncitizen***[~~special status individual~~] but ***who*** is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service***,*** is issued, or ***for*** four (4) years, whichever time period is shorter. An initial or renewal operator's license shall be valid for a period of two (2) years if the person is not a ***noncitizen***[~~special status individual~~] and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular operator's license. The cabinet may at any time refuse or discontinue the exemptions authorized in this section for any grounds and may deny, cancel, suspend, or revoke an instruction permit or operator's license issued under this chapter.

(6)[~~(5)~~] A person whose operator's license or privilege to operate a motor vehicle, motorcycle, or moped in this ***Commonwealth***[~~state~~] has been denied, withdrawn, canceled, suspended, or revoked as provided in KRS 186.400 to 186.640 shall not operate a motor vehicle, motorcycle, or moped in this ***Commonwealth***[~~state~~] under a license, permit, or registration certificate issued by any other jurisdiction during the period of denial, withdrawal, cancellation, suspension, or revocation.

Section 4. KRS 68.200 is amended to read as follows:

(1) As used in this section, unless the context clearly indicates otherwise:

(a) Motor vehicle means "vehicle" as defined in ***subsection (14)(a) of Section 1 of this Act***[~~KRS 186.010(8)(a)~~];

(b) Retailer means "retailer" as defined in KRS 139.110(1)(a); and

(c) Gross rental charge means "gross rental charge" as defined in KRS 138.462(4).

(2) A county containing a city of the first, second, or third class***,***[~~ or~~] urban-county government***, consolidated local government, or charter county government*** may levy a license fee on the rental of motor vehicles which shall not exceed three percent (3%) of the gross rental charges from rental agreements for periods of thirty (30) days or less. The license fee shall apply to retailers who receive more than seventy-five percent (75%) of their gross revenues generated in the county from gross rental charges. Any license fee levied pursuant to this subsection shall be collected by the retailer from the renters of the motor vehicles.

(3) Revenues from rental of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:

(a) The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or

(b) The rental is part of the services provided by a funeral director for a funeral; or

(c) The rental is exempted from the state sales and use tax pursuant to KRS 139.470.

(4) A fiscal court or the legislative body of an urban-county government***, consolidated local government, or charter county government*** shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee account. The revenues may be shared among local governments pursuant to KRS 65.245.

(5) The county***, urban-county government, consolidated local government, or charter county government*** shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.245, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the[~~ county's~~] economic development activities ***of the county, urban-county government, consolidated local government, or charter county government***:

(a) A riverport authority established by the county***, urban-county government, consolidated local government, or charter county government*** pursuant to KRS 65.520; or

(b) An industrial development authority established by the county***, urban-county, government, consolidated local***

government, or charter county government pursuant to KRS 154.50-316; or

(c) A nonprofit corporation as defined in KRS 273.161(3) which has been organized for the purpose of promoting economic development.

The entity shall make a written request for funds from the motor vehicle license fee account by May 31 and November 30, respectively.

Section 5. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the Revenue Cabinet, for collecting state ad valorem taxes on motor vehicles, a commission of four percent (4%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer, for collecting county and special district ad valorem taxes on motor vehicles, a commission of four percent (4%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of four percent (4%) of the school district taxes collected.

(4) Effective January 1, 1985, the county clerk shall be allowed a commission of four percent (4%) of the city or urban-county government taxes collected.

(5) (a) For the convenience and benefit of the Commonwealth's citizens and to maximize ad valorem tax collections, county clerks shall be responsible for causing the preparation and mailing of a notice of ad valorem taxes due to the January 1 owner, as defined in ***subsections (12)(a) and (c) of Section 1 of this Act***[~~KRS 186.010(7)(a) and (c)~~], of each motor vehicle no later than forty-five (45) days prior to the ad valorem tax and registration renewal due date in each calendar year.

(b) When a vehicle is transferred in any year before the ad valorem taxes on that vehicle have been paid, a notice of taxes due shall be sent within ten (10) working days after the date of transfer or notice of transfer to the owner as of January 1 of that year.

(c) When ad valorem taxes on a vehicle become delinquent for sixty (60) days, as defined by KRS 134.810, a second notice shall be sent within ten (10) working days to the January 1 owner of record. The notice shall inform the delinquent owner of the lien provisions provided by KRS 134.810 on all vehicles owned or acquired by the owner of the vehicle at the time the tax liability arose.

(d) These notices shall be calculated, prepared, and mailed first class on behalf of county clerks by the AVIS. Nonreceipt of the notices required herein shall not constitute any defense against applicable penalty, interest, lien fees, or costs recovery.

Section 6. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to ***subsections (12)(a) and (c) of Section 1 of this Act***[~~KRS 186.010(7)(a) and (c)~~] on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer and all motor vehicles with a salvage title held by an insurance company on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(10) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem

taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 7. KRS 138.465 is amended to read as follows:

(1) Any person other than a dealer, as defined in ***Section 1 of this Act***[~~KRS 186.010(10)~~], who sells or transfers a motor vehicle in this state shall deliver to the county clerk the certificate of registration and ownership with the assignment form on the reverse side properly executed and shall transfer the vehicle to the new owner within ten (10) days of the date of the sale or transfer of ownership.

(2) Any person who violates subsection (1) of this section shall be subject to the penalties set out in KRS 186.990(2).

Section 8. KRS 186.021 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration for renewal to any person who on January 1 of any year owned a motor vehicle on which state, county, city, urban-county government, ***consolidated local government, charter county government,*** school, or special taxing district ad valorem taxes are delinquent.

(2) Pursuant to KRS 134.810(4), the owner as defined in ***subsections (12)(a) and (c) of Section 1 of this Act***[~~KRS 186.010(7)(a) and (c)~~] on January 1 of any year shall be liable for taxes due on a motor vehicle. A person other than the owner of record who applies to a county clerk to transfer the registration of a motor vehicle may pay any delinquent ad valorem taxes due on the motor vehicle to facilitate the county clerk's transferring registration of the motor vehicle. The person applying shall not be required to pay delinquent ad valorem taxes due on any other motor vehicle owned by the owner of record from which he is purchasing his motor vehicle as a condition of registration.

(3) A county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration renewal for any motor vehicle that is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in administrative regulations issued by the Department of Insurance.

Section 9. KRS 186A.070 is amended to read as follows:

Except as otherwise provided, the state resident owner of a vehicle as defined in ***subsection (14)(a) of Section 1 of this Act***[~~KRS 186.010(8)(a)~~], manufactured home as defined in KRS 186.650, or trailer which will not be operated upon the highways of this state shall within fifteen (15) days apply for and obtain a certificate of title in his name. He shall not, however, be required to obtain a certificate of registration until the vehicle, manufactured home, or trailer is to be operated upon the highways of this state.

Section 10. KRS 186A.510 is amended to read as follows:

As used in KRS 186A.500 to 186A.550, unless the context otherwise requires:

(1) "Brand" means a designation that is affixed as required by this chapter, or that has previously been affixed, to a motor vehicle title that establishes a portion of the history of the motor vehicle and that shall be fixed to all subsequently issued titles for that vehicle;

(2) "Dealer" means a person or business as defined in KRS 190.010 who sells or offers for sale a motor vehicle;

(3) "Junk vehicle" means a vehicle which meets the description set forth in KRS 186A.295(1)(a);

(4) "Motor vehicle" means a motor vehicle as defined in ***Section 1 of this Act***[~~KRS 186.010(8)(a) and (b)~~];

(5) "Owner" means a person who holds the legal title of a vehicle or a person who pursuant to a bona fide sale has received physical possession of the vehicle subject to any applicable security interest;

(6) "Rebuilt vehicle" means a vehicle that has been repaired to a road-worthy condition after having been registered as a salvage vehicle pursuant to KRS 186A.520, or a similar salvage designation from another licensing jurisdiction; and

(7) "Water damage" means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.

Section 11. KRS 281A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol" means:

(a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one ***percent***[~~percentum~~] (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than one-half of one ***percent***~~[percentum]~~ (0.5%) of alcohol by volume; or

(c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or

(d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including~~[,]~~ but not limited to~~[,]~~ ethanol, methanol, propanol, and isopropanol***;***~~[.]~~

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred (100) milliliters of blood;

(b) The number of grams of alcohol per two hundred ten (210) liters of breath; or

(c) The number of grams of alcohol per sixty-seven (67) milliliters of urine***;***~~[.]~~

(3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky***;***~~[.]~~

(4) "Commerce" means:

(a) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and

(b) Trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in paragraph (a) of this subsection***;***~~[.]~~

(5) "Commercial driver's license," or ***"***CDL,***"*** means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle***;***~~[.]~~

(6) "Commercial driver's license information system***,***" or ***"***CDLIS***,"*** means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers***;***~~[.]~~

(7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS 281A.120***;***~~[.]~~

(8) "Commercial motor vehicle," or ***"***CMV,***"*** means a motor vehicle or combination motor vehicle used in commerce that is:

(a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;

(b) Designed to transport sixteen (16) or more passengers, including the driver;

(c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or

(d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver***;***~~[.]~~

(9) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A***;***~~[.]~~

(10) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated***;***~~[.]~~

(11) "Disqualification" means a withdrawal, cancellation, suspension, or revocation of the privilege to drive a commercial motor vehicle***;***~~[.]~~

(12) "Drive" means to drive, operate, or be in physical control of a motor vehicle***;***~~[.]~~

(13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license***;***~~[.]~~

(14) "Driver's license" means a license issued by a state to an individual that authorizes the individual to drive a motor vehicle***;***~~[.]~~

(15) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; ***and*** leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer***;***~~[.]~~

(16) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle~~[,]~~ or assigns a person to drive a commercial motor vehicle***;***~~[.]~~

(17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for at least one (1) year in a correctional facility***;***~~[.]~~

(18) "Gross combination weight rating," or "GCWR," is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit***;***[~~.~~]

(19) "Gross vehicle weight rating," or "GVWR," means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle***;***[~~.~~]

(20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation Act, 49 U.S.C. secs. 1801 et seq.***;***

(21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic***;***[~~.~~]

(22) "Moped" shall have the same meaning as in ***Section 1 of this Act;***[~~KRS 186.010(5).~~]

(23) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail***;***[~~.~~]

(24) "NDR" means the national driver register***;***[~~.~~]

(25) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle***;***[~~.~~]

(26) "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement***;***[~~.~~]

(27) "School bus" means a vehicle that meets the specification of KRS 156.153 and is designed to transport sixteen (16) or more passengers including the driver***;***[~~.~~]

(28) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:

(a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;

(b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(c) Improper or erratic traffic lane changes;

(d) Following the vehicle ahead too closely;

(e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident; or

(f) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration***;***[~~.~~]

(29) "State" means a state of the United States and the District of Columbia***; and***[~~.~~]

(30) "State police" means the Department of State Police of the Commonwealth of Kentucky.

Section 12. This Act shall be known as "The North American Driver's Licensing Act."

The Committee Substitute to **HB 11** is as follows:

HB 11, AN ACT relating to motor vehicles.

WHEREAS, there are public safety concerns over the number of undocumented foreign nationals without drivers' licenses currently driving on Kentucky's highways; and

WHEREAS, undocumented foreign nationals do not have Social Security numbers, drivers' licenses, or other documents which could be used in identifying those individuals; and

WHEREAS, it is estimated that there are currently upwards of 100,000 undocumented foreign nationals in Kentucky; and

WHEREAS, many undocumented foreign nationals possess skills essential to Kentucky employers in the health care, agriculture, computer, and equine industries, among others; and

WHEREAS, Kentucky employers are often unable to employ sufficient numbers of workers to fill these essential positions; and

WHEREAS, the issue of licenses for undocumented foreign nationals deserves study because of its impact on highway safety, national security, and the economy;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Immigrant Driver's Licensing Task Force is created to study the problems associated with undocumented foreign nationals driving without obtaining legal driver's licenses. The task force shall examine Transportation Cabinet procedures and the effect this issue has on national security, highway safety, and Kentucky employers.

Section 2. The task force shall consist of seven members as follows:

(1) Two members of the Kentucky Senate, appointed by the President of the Senate;

(2) Two members of the Kentucky House of Representatives, appointed by the Speaker of the House;

(3) The director of the Division of Driver's Licensing within the Transportation Cabinet;

(4) The Commissioner of Agriculture; and

(5) One circuit clerk, appointed by the Legislative Research Commission from a list of five nominees submitted by the Circuit Clerks' Association.

Section 3. A majority of members shall serve as a quorum. The President of the Senate shall appoint one of the Senate members to serve as co-chair of the task force and the Speaker of the House shall appoint one of the House members to serve as co-chair of the task force. The task force shall be staffed by Legislative Research Commission Staff.

Section 4. The task force shall report its findings and legislative recommendations to the Legislative Research Commission no later than November 30, 2003.

Section 5. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HB 11** is as follows:

HB 11, On page 1, amend the title to read as follows:

"AN ACT creating an Immigrant Driver's Licensing Task Force.".

HB 15, AN ACT relating to public safety vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.930 is amended to read as follows:

(1) Upon the approach of an emergency vehicle equipped with, and operating, one (1) or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of five hundred (500) feet to the front of such vehicle; or the driver is given audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.

(2) Upon the approach of any emergency vehicle, operated in conformity with the provisions of subsection (1) of this section, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.

(3) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of subsection (1) of this section closer than five hundred (500) feet, nor shall he drive into, or park the vehicle into, or park the vehicle within, the block where the vehicle has stopped in answer to an emergency call or alarm unless he is directed otherwise by a police officer or firefighter.

(4) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire or fire alarm unless the fire department official in command consents that the hose be driven over.

(5) Upon approaching a stationary emergency vehicle ***or public safety vehicle***, when the emergency vehicle ***or public safety vehicle*** is giving a signal by displaying alternately flashing ***yellow,*** red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:

(a) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if:

1. The person is driving on a highway having at least four (4) lanes with not fewer than two (2) lanes proceeding in the same direction as the approaching vehicle; and

2. If it is possible to make the lane change with due regard to safety and traffic conditions; or

(b) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.

(6) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

HB 36, AN ACT relating to abducted children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) The Department of State Police, in cooperation with the Transportation Cabinet, the Division of Emergency Management, and the news media shall operate a system to notify the public when a child has been abducted and the Department of State Police determines that public notification might aid in the recovery of the child. The system shall be known as the Kentucky Amber alert system.

(2) The system shall utilize existing resources, including but not limited to electronic highway signs, the emergency broadcast system, law enforcement communications systems, and local, regional, and statewide media providers.

(3) No public alert using the system shall be issued unless the Department of State Police, in consultation with the law enforcement agency in the jurisdiction in which the abduction of a minor occurred, have determined:

(a) That the minor has actually been abducted or that all available evidence strongly indicates that the minor has been abducted;

(b) That public notification is the most appropriate method of recovering the child in a safe and efficient manner; and

(c) The geographic area in which the notification shall be made.

(4) If it is determined by the Department of State Police that public notification shall be initiated, the Department of State Police shall notify the public and private agencies and organizations which will actually provide the notification and shall provide those organizations and agencies with the information which the Department of State Police deems necessary.

(5) All law enforcement agencies in the Commonwealth shall cooperate with the Department of State Police in the provision and dissemination of information regarding any abducted minor.

(6) No law enforcement agency, other than the Department of State Police, shall activate the notification system specified in this section without the authority of the Department of State Police.

(7) The system shall be operated by all agencies of the Commonwealth within existing budgetary appropriations.

The Committee Substitute to **HB 36** is as follows:

HB 36, AN ACT relating to abducted children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) The Department of State Police, in cooperation with the Transportation Cabinet, the Division of Emergency Management, the Kentucky Broadcasters Association, and the Kentucky Press Association shall operate a system to notify the public when a child has been abducted and the Department of State Police determines that public notification might aid in the recovery of the child. The system shall be known as the Kentucky Amber alert system.

(2) The system shall utilize existing resources, including but not limited to electronic highway signs, the emergency broadcast system, law enforcement communications systems, and local, regional, and statewide media providers.

(3) No public alert using the system shall be issued unless the Department of State Police, in consultation with the law enforcement agency in the jurisdiction in which the abduction of a minor occurred, have determined:

(a) That the minor has actually been abducted or that all available evidence strongly indicates that the minor has been abducted;

(b) That public notification is the most appropriate method of recovering the child in a safe and efficient manner; and

(c) The geographic area in which the notification shall be made.

(4) If it is determined by the Department of State Police that public notification shall be initiated, the Department of State Police shall notify the public and private agencies and organizations which will actually provide the notification and shall provide those organizations and agencies with the information which the Department of State Police deems necessary.

(5) All law enforcement agencies in the Commonwealth shall cooperate with the Department of State Police in the provision and dissemination of information regarding any abducted minor.

(6) No law enforcement agency, other than the Department of State Police, shall activate the notification system specified in this section without the authority of the Department of State Police.

(7) The system shall be operated by all agencies of the Commonwealth within existing budgetary appropriations.

HB 64, AN ACT relating to United States Selective Service System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any United States male citizen or immigrant who is at least eighteen (18) years of age but less than twenty-six (26) years of age shall be registered for the United States Selective Service System when applying to the Transportation Cabinet for the issuance, renewal, or duplicate copy of:

(a) An operator's license;

(b) A commercial driver's license; or

(c) A nondriver identification card.

(2) This registration is in compliance with federal Selective Service System requirements.

(3) The Transportation Cabinet shall forward, in an electronic format, the necessary personal information required for registration of the applicants identified in this section to the Selective Service System via the American Association of Motor Vehicles Administrators Network. If an applicant declines registration, the Transportation Cabinet shall forward the necessary personal information to the Selective Service System with the notation that automatic registration was declined.

(4) The applicant's submission of the application shall serve as an indication that the applicant has already registered with the Selective Service System, or that he is authorizing the Transportation Cabinet to forward the necessary information for registration to the Selective Service System.

(5) The Transportation Cabinet shall include the following statement on applications for licenses or identification cards described in this section: "By submitting this application, I am consenting to registration with the federal Selective Service System, if so required. If under eighteen (18) years of age, I understand that I will be registered as required by federal law when I attain eighteen (18) years of age." In the event the applicant declines Selective Service registration, the cabinet may issue an operator's license or nondriver identification card, but shall forward the necessary personal information to the Selective Service System.

HB 114, AN ACT relating to toll roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.525 is amended to read as follows:

(1) The authority or the cabinet shall establish by administrative regulation promulgated pursuant to KRS Chapter 13A a toll-road identification card to be provided to paying and nonpaying users of toll facilities. The toll-road identification cards shall be issued through an application process. A fee that shall not exceed five dollars ($5) may be established for the issuance of each card.

(2) Upon application, nonpaying accounts shall be established for:

(a) State police, local police, and fire department vehicles while the vehicles are being operated in an official capacity on a turnpike project;

(b) Emergency vehicles operated by an ambulance service while the vehicles are being operated in an official capacity, in both emergency and nonemergency situations on a turnpike project;~~[and]~~

(c) Funeral processions on turnpike projects*; and*

(d) Vehicles owned or leased by nonprofit organizations that are used in disaster relief efforts, while the vehicles are being operated on a turnpike project in responding to a disaster area as declared by the federal government or any state government.

(3) To receive the exemption contained in subsection (2) of this section, an ambulance service shall be licensed by the Cabinet for Health Services.

The Committee Amendment No. 1 Title to **HB 114** is as follows:

HB 114, On page 1, amend the title to read as follows:

"AN ACT relating to vehicles used in disaster relief efforts.".

HB 185, AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.0739 is amended to read as follows:

All statutes to the contrary notwithstanding, the Transportation Cabinet shall amend its policies and administrative regulations in effect on *the effective date of this Act*[~~July 15, 2002~~], governing highway signage, to include *bed and breakfast establishments,* shopping malls, and shopping areas as businesses that are eligible to obtain a specific service highway sign, and shall not subsequently adopt new policies or promulgate new administrative regulations to the contrary.

HB 239, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "Friends of the Zoo" means a corporation that is located in a county containing a consolidated local government organized under KRS Chapter 67C and is:

(a) Exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(b) Incorporated to support the zoological, botanical, and cultural interests, activities, and education that are an integral part of the mission of a zoo located in a county containing a consolidated local government organized under KRS Chapter 67C.

(2) The owner or lessee of a motor vehicle registered under KRS 186.050(1) or (3)(a) may apply for a special Louisville Zoo license plate. The owner or lessee shall apply for the special Louisville Zoo license plate in the office of the county clerk in the county where the person lives. When the owner or lessee applies for a special Louisville Zoo license plate, the county clerk shall inform the owner or lessee that the person's application and state fee shall be sent to Frankfort to the Transportation Cabinet where it will be held for a period not to exceed one (1) year while the cabinet is waiting to receive a total of one thousand eight hundred (1,800) applications under subsection (3) of this section.

(3) The Transportation Cabinet shall print special Louisville Zoo license plates if the cabinet has received one thousand eight hundred (1,800) applications and the accompanying initial state fee of twenty-two dollars ($22) within a one (1) year period. If the cabinet has not received one thousand eight hundred (1,800) applications within one (1) year from the date the cabinet receives the first application for a special Louisville Zoo license plate, the cabinet shall refund the twenty-two dollar ($22) state fee to the appropriate applicants.

(4) Subject to the provisions of subsection (3) of this section, the initial application fee for the first one thousand eight hundred (1,800) special Louisville Zoo license plates printed by the Transportation Cabinet shall be thirty seven dollars ($37). The thirty seven dollar ($37) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of twenty-two dollars ($22) which includes the state fee to reflectorize the license plate under KRS 186.240;

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining twelve dollar ($12) fee collected from the applicant shall be remitted to the Transportation Cabinet which shall use the fee exclusively to carry out the provisions of subsection (10) of this section.

(5) The initial application fee for every special Louisville Zoo license plate printed by the Transportation Cabinet in excess of one thousand eight hundred (1,800) shall be twenty-five dollars ($25). The twenty-five dollar ($25) fee shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of ten dollars ($10), which includes the state fee to reflectorize the license plate under KRS 186.240;

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining twelve dollar ($12) fee collected from the applicant shall be remitted to the Transportation Cabinet which shall use the fee exclusively to carry out the provisions of subsection (10) of this section.

(6) A special Louisville Zoo license plate shall annually be issued a renewal registration decal during the owner's or lessee's birth month. The annual renewal fee shall be twenty five dollars ($25) and shall be divided as follows:

(a) The Transportation Cabinet shall receive a fee of ten dollars ($10), which includes the state fee to reflectorize the license plate under KRS 186.240;

(b) The county clerk shall receive a fee of three dollars ($3); and

(c) The remaining twelve dollar ($12) fee collected from the applicant shall be remitted to the Transportation Cabinet which shall use the fee exclusively to carry out the provisions of subsection (10) of this section.

(7) Except as provided in this subsection, the special Louisville Zoo license plate shall be replaced on the same schedule that regular license plates are replaced by the Transportation Cabinet under KRS 186.240. A special Louisville Zoo license plate shall be replaced free of charge if:

(a) The metal plate:

1. Is destroyed in an accident;

2. Deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible; or

3. Is stolen; and

(b) The owner or lessee has not transferred the vehicle issued the plate during the current licensing period.

(8) A person seeking a special Louisville Zoo license plate for a vehicle provided as part of his or her occupation shall conform to the requirements of KRS 186.050(14).

(9) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special Louisville Zoo license plate and return it and the certificate of registration to the county clerk of the county where the owner or lessee lives. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee, which includes the state fee to reflectorize the license plate under KRS 186.240, and a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special Louisville Zoo license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special Louisville Zoo license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk, who shall forward the plate to Frankfort.

(10) All funds received by the Transportation Cabinet under subsections (4)(c), (5)(c), and (6)(c) of this section shall be deposited into a Louisville Zoo program fund that is established in the state road fund. Money in the Louisville Zoo program fund shall be used as provided in this subsection. If at the end of a fiscal year money remains in the Louisville Zoo program fund, it shall be retained in the fund and used as provided in this subsection and shall not revert to the road fund. All interest and income earned on money in the Louisville Zoo program fund shall be retained by the Transportation Cabinet to help offset the costs associated with administering this subsection.

(a) At the end of each fiscal year the cabinet shall, after deducting interest and income earned during the year, disburse all funds remaining in the Louisville Zoo program fund to the Friends of the Zoo. The Friends of the Zoo shall be responsible for distributing one hundred percent (100%) of the funds received under this subsection to the zoo located in a county containing a consolidated local government organized under KRS Chapter 67C. The funds shall be used by the zoo to support the zoological, botanical, and cultural interests, activities, and education that are an integral part of the mission of the zoo. The funds shall not be used to support personnel costs or administrative costs of the zoo.

(b) A person wishing to purchase a special Louisville Zoo license plate who does not live in a county with a consolidated local government organized under KRS Chapter 67C shall be permitted on the application form to designate a county with a consolidated local government and zoo where the proceeds from the person's purchase shall be credited for purposes of distribution under this subsection. The plate issued under this paragraph shall designate the county where the person's motor vehicle is registered, not the county designated on the application form to receive the proceeds from the person's purchase of the Louisville Zoo plate.

(11) License plates shall be the color and design selected by the Friends of the Zoo, in consultation with, and upon approval of, the Transportation Cabinet. The Friends of the Zoo may select up to three (3) designs. The name "Kentucky" shall appear on the special Louisville Zoo license plate and the cabinet may use any combination of letters or numerals as needed in the design.

The Committee Substitute to **HB 239** is as follows:

HB 239, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "Friends of the Zoo" means a corporation that is located in a county containing a consolidated local government organized under KRS Chapter 67C and is:

(a) Exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(b) Incorporated to support the zoological, botanical, and cultural interests, activities, and education that are an integral part of the mission of a zoo located in a county containing a consolidated local government organized under KRS Chapter 67C.

(2) The owner or lessee of a motor vehicle registered under the provisions of KRS 186.050(1) or (3)(a) may apply for a special Louisville Zoo license plate in the office of the county clerk in the county where the person lives. The first nine hundred (900) persons to apply for a special Louisville Zoo license plate shall include with the application the state fee established in subsection (3) of this section and a three dollar ($3) county clerk fee. After the first nine hundred (900) persons apply for the special plate, each application shall be accompanied by the fee established in subsection (4) of this section. The county clerk shall inform the first nine hundred (900) applicants that the application and state fee shall be sent to the Transportation Cabinet in Frankfort where they shall be held for a period not to exceed one (1) year

while the cabinet is waiting to receive sufficient applications subject to the provisions of subsection (3) of this section. Until the Louisville Zoo license plate is actually printed, the cabinet shall issue to each county clerk a monthly status report on the number of persons that have applied for the special plate, to enable the clerk to determine the appropriate application fee.

(3) If the Transportation Cabinet receives a minimum of nine hundred (900) applications accompanied by a fifty dollar ($50) state fee within one (1) year from the date the cabinet receives the first application for the special plate, the cabinet shall begin designing and printing special Louisville Zoo license plates. The purpose of the fifty dollar ($50) state fee is to offset computer programming costs incurred by the cabinet. If the cabinet does not receive nine hundred (900) applications within one (1) year from the date the cabinet receives the first application for a special Louisville Zoo license plate, the cabinet shall refund the fifty dollar ($50) state fee to the appropriate applicant and this section shall expire and be automatically repealed.

(4) After the minimum number of requests required under subsection (3) of this section has been achieved and the cabinet has printed the Louisville Zoo license plate, each initial applicant for the special plate, and each applicant applying to renew the special plate, shall pay a state fee of twelve dollars ($12) that includes the fee to reflectorize the license plate under KRS 186.240, and a county clerk fee of three dollars ($3). An applicant may also make a voluntary contribution of twelve dollars ($12) that the county clerk shall remit quarterly to the Friends of the Zoo, or its successor agency, to be used as established in subsection (9) of this section.

(5) A special Louisville Zoo license plate shall be a five (5) year plate and shall annually be issued a renewal registration decal during the owner's or lessee's birthmonth.

(6) A special Louisville Zoo license plate shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(7) A person seeking a special Louisville Zoo license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(8) Upon the sale, transfer, or termination of a lease of a vehicle licensed under this section, the owner or lessee shall remove the special Louisville Zoo license plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special Louisville Zoo license plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special Louisville Zoo license plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(9) All funds received by the Friends of the Zoo under subsection (4) of this section shall be deposited into a separate account that shall be audited yearly at the expense of the Friends of the Zoo. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. Money in the account shall be used for public programs not limited to Friends of the Zoo or Louisville Zoo members that promote zoological, botanical, and cultural interests, activities, and education that are an integral part of the mission of all zoos.

(10) The name "Kentucky" shall appear on the Louisville Zoo license plate and the cabinet may use any combination of letters or numerals as needed in the design. Subject to any other necessary limitations imposed by the Transportation Cabinet, special Louisville Zoo license plates shall be the color and design developed by the Friends of the Zoo.

HB 245, AN ACT relating to the titling of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) There shall be a five dollar ($5) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of ten dollars ($10) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(d) An inspection conducted in one (1) county within the Commonwealth of Kentucky under this subsection, and the fees paid for that inspection under this subsection, shall be honored by the certified inspector, sheriff, and county clerk in all other counties within this state. A second inspection shall not be required and additional fees shall not be required.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a nonnegotiable registration document is to be issued;

(c) Motor vehicles operated by a motor carrier under a nonnegotiable certificate or permit issued by the Department of Vehicle Regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky may be inspected by the post provost or similar officer of the camp, post, or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle;~~[and]~~

(e) ***Motor vehicles purchased in another state by persons who are residents of Kentucky but are temporarily residing out of state for at least thirty (30) days, but not longer than nine (9) months, may after the purchase of the vehicle be inspected by the state police, a local law enforcement agency, or the vehicle inspection program of another state. If an inspector in another state examines a vehicle under this paragraph, the purchaser may request the inspector to complete an affidavit stating the name of the owner, the vehicle identification number, the vehicle make and body style, the current state of registration, if any, and the current vehicle license or title number, if any. The Transportation Cabinet shall create an affidavit form containing at a minimum this information and shall post the form on the cabinet's Internet web site. A person using an inspector in another state under this paragraph shall comply with all requirements of that state's inspection program, including payment of fees charged in that state. A person registering a motor vehicle for the first time in Kentucky under this paragraph shall transmit the application for registration, all supporting documentation, and payment for registration and usage tax to the county clerk of the county in which the person resides, and upon receipt of the appropriate documentation, the county clerk shall register the vehicle; and***

(f) Motor vehicles no longer located in Kentucky but which require inspection in order to issue a corrected Kentucky title due to error in vehicle identification or serial number may be inspected by an inspector authorized to inspect vehicle identification or serial number by the laws of the state or foreign country where application for a new title has been submitted.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name shall be accompanied by proof of insurance in compliance with KRS 304.39-080 and one (1) of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, a properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the Armed Forces of the United States, the county clerk may accept on behalf of the Department of Vehicle Regulation evidence of ownership provided the applicant by the United States Department of Defense; and

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the Department of Vehicle Regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle, when registration or title is sought in this state, on the following points:

(a) He shall ensure that the application is legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the application, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the application; and

(d) After exercising due diligence in inspecting the vehicle, the application, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided his first name, middle initial, and last name, and his title; the name of the county in which he serves; and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day, and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy, and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;

(c) The application and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

HB 255, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Bill of lading" means a document evidencing the purchase or, or delivery order for, building materials issued by a person engaged in a business that sold or leased the building materials;

(b) "Building materials" means equipment or materials associated with new home construction, home remodeling, or home maintenance, including but not limited to:

1. Agriculture products;

2. Asphalt;

3. Concrete;

4. Crushed stone;

5. Excavation equipment;

6. Fill dirt and rock;

7. Glass;

8. Landscaping materials;

9. Lumber or other wood products;

10. Minerals;

11. Roofing materials; and

12. Steel products; and

(c) "Home" means:

1. A site where a single or multi-family housing unit is being initially constructed; and

2. A site where construction of a single or multi-family housing unit is complete and persons inhabit the housing unit.

(d) "State road" means a state or federal highway but does not mean an interstate or county road."

(2) Other statutes to the contrary in this chapter notwithstanding, any vehicle hauling building materials to a home shall be allowed, subject to the provisions of this section, to travel on any state road without a permit and without being subject to a fine, if the weight of the vehicle is within the limits of the registration issued to the vehicle and within the axle limits for the vehicle, even if the vehicle's gross weight or length, including vehicle and load, exceed the limits prescribed by this chapter or in other aspects fail to comply with this chapter.

(3) A vehicle hauling building materials under this section shall be allowed to travel the most direct route, in the opinion of the operator, to the vehicle's point of destination, provided any road traveled as the most direct route shall not be further than fifteen (15) miles from a state road that is classified to carry the registered weight of the vehicle. If a vehicle is traveling a road classified by the cabinet as a single "A" highway, the vehicle or its load cannot exceed ninety-six (96) inches in width. If a vehicle or its load exceed ninety-six (96) inches in width, the operator shall be

required to obtain the appropriate overdimensional permit required by this chapter to travel the proposed route. The operator of a vehicle hauling building materials under this section shall have in his or her possession a bill of lading.

(4) All vehicles hauling building materials under this section shall be prohibited from exceeding the established width and posted bridge weight limits for any route the vehicle travels. A vehicle that exceeds the width or bridge limits for its posted routes shall be required to obtain the appropriate overdimensional or overweight permit required by this chapter.

Section 2. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222(9) or KRS 189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

(1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.

(6) Notwithstanding the provisions of this section, any truck hauling building materials ***under Section 1 of this Act, or*** to a road construction project on a highway rated less than the maximum weight provided above may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit.~~[This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.]~~

Section 3. KRS 189.230 is amended to read as follows:

(1) ***Except as provided in Section 1 of this Act and subsection (6) of Section 2 of this Act,*** the department, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection (3) of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (4) of KRS 189.390, respectively, if in their judgment any highway may, by reason of its design, deterioration, rain, or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The department or fiscal court may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, if in their judgment, the regulation or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.

(2) The department, in respect to bridges on the extended weight coal haul system defined in KRS 177.9771, may prescribe, by notice, as provided in subsection (3) of this section, gross weight limits lower than the limits prescribed in KRS 177.9771, when in its judgment any bridge on the extended weight coal haul road system may, by reason of its design or deterioration, be damaged or destroyed to the point of catastrophic failure by motor vehicles, if their gross weight exceeds certain limits. For the purposes of KRS 177.9771, all bridges shall conform with KRS 177.9771(4)(a) to (d).

(3) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After a notice has been posted, a person shall not operate any motor truck or semitrailer truck contrary to its provisions.

(4) A fiscal court shall require all persons applying for a permit issued under KRS 189.212 to enter into a cooperative agreement with the fiscal court. The cooperative agreement shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction, or reconstruction of those roads and bridges on which the person will be operating under the permit issued under KRS 189.212. A fiscal court may require as part of a cooperative agreement for the person to give the fiscal court a bond to ensure payment of the equitable costs associated with the permit issued under KRS 189.212. All funds collected under this subsection shall be expended on those roads covered by the cooperative agreement.

(5) A fiscal court shall not be relieved of expending its normal routine maintenance on all roads covered by cooperative agreements under the provisions of this section.

(6) A person who entered a cooperative agreement with a fiscal court under the provisions of subsection (4) of this section may terminate the agreement by submitting written notice to the fiscal court. If a person terminates a cooperative agreement with a fiscal court, the permit issued under KRS 189.212 shall immediately be revoked by the fiscal court.

The Committee Substitute to **HB 255** is as follows:

HB 255, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Bill of lading" means a document evidencing the purchase or, or delivery order for, building materials issued by a person engaged in a business that sold or leased the building materials;

(b) "Building materials" means equipment or materials associated with new home construction, home remodeling, or home maintenance, including but not limited to:

1. Agriculture products;

2. Asphalt;

3. Concrete;

4. Crushed stone;

5. Excavation equipment;

6. Fill dirt and rock;

7. Glass;

8. Landscaping materials;

9. Lumber or other wood products;

10. Minerals;

11. Roofing materials; and

12. Steel products; and

(c) "Home" means:

1. A site where a single or multi-family housing unit is being initially constructed; and

2. A site where construction of a single or multi-family housing unit is complete and persons inhabit the housing unit.

(d) "State road" means a state or federal highway but does not mean an interstate or county road."

(2) Other statutes to the contrary in this chapter notwithstanding, any vehicle hauling building materials to a home shall be allowed, subject to the provisions of this section, to travel on any state road without a permit and without being subject to a fine, if the weight of the vehicle is within the limits of the registration issued to the vehicle and within the axle limits for the vehicle, even if the vehicle's gross weight or length, including vehicle and load, exceed the limits prescribed by this chapter or in other aspects fail to comply with this chapter.

(3) A vehicle hauling building materials under this section shall be allowed to travel the most direct route, in the opinion of the operator, to the vehicle's point of destination, provided any road traveled as the most direct route shall not be further than fifteen (15) miles from a state road that is classified to carry the registered weight of the vehicle. If a vehicle is traveling a road classified by the cabinet as a single "A" highway, the vehicle or its load cannot exceed ninety-six (96) inches in width. If a vehicle or its load exceed ninety-six (96) inches in width, the operator shall be required to obtain the appropriate overdimensional permit required by this chapter to travel the proposed route. The operator of a vehicle hauling building materials under this section shall have in his or her possession a bill of lading.

(4) All vehicles hauling building materials under this section shall be prohibited from exceeding the established width and posted bridge weight limits for any route the vehicle travels. A vehicle that exceeds the width or bridge limits for its posted routes shall be required to obtain the appropriate overdimensional or overweight permit required by this chapter.

Section 2. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222(9) or KRS 189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

(1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600)

pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.

(6) Notwithstanding the provisions of this section, any truck hauling building materials ***under Section 1 of this Act, or*** to a road construction project on a highway rated less than the maximum weight provided above may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit.[~~ This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.~~]

Section 3. KRS 189.222 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section,*** the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13-1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;

(e) Truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.

(2) ***In addition to the provisions of Section 1 of this Act, vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any state highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation, any posted bridge weight limit, or the weight limits for the size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:***

(a) Meats or agricultural crop products originating from a farm to first market;

(b) Livestock or poultry from their point of origin to first market; or

(c) Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.

(3) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(4)[~~(3)~~] Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(5)[~~(4)~~] Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

(6)[~~(5)~~] Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(7)[~~(6)~~] The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.

(8)[~~(7)~~] Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.

(9)[~~(8)~~] Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.

(10)[~~(9)~~] The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally-maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally-maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

Section 4. KRS 189.230 is amended to read as follows:

(1) ***Except as provided in Sections 1 and 3 of this Act and subsection (6) of Section 2 of this Act,*** the department, in respect to state and federal highways, and county judges/executive in respect to county highways, may prescribe, by notice as provided in subsection (3) of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (4) of KRS 189.390, respectively, if in their judgment any highway may, by reason of its design, deterioration, rain, or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The department or fiscal court may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways or county roads for limited periods of specified days, or parts of days, if their load and speed exceed those limits, if in their judgment, the regulation or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.

(2) The department, in respect to bridges on the extended weight coal haul system defined in KRS 177.9771, may prescribe, by notice, as provided in subsection (3) of this section, gross weight limits lower than the limits prescribed in KRS 177.9771, when in its judgment any bridge on the extended weight coal haul road system may, by reason of its design or deterioration, be damaged or destroyed to the point of catastrophic failure by motor vehicles, if their gross weight exceeds certain limits. For the purposes of KRS 177.9771, all bridges shall conform with KRS 177.9771(4)(a) to (d).

(3) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After a notice has been posted, a person shall not operate any motor truck or semitrailer truck contrary to its provisions.

(4) A fiscal court shall require all persons applying for a permit issued under KRS 189.212 to enter into a cooperative agreement with the fiscal court. The cooperative agreement shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction, or reconstruction of those roads and bridges on which the person will be operating under the permit issued under KRS 189.212. A fiscal court may require as part of a cooperative agreement for the person to give the fiscal court a bond to ensure payment of the equitable costs associated with the permit issued under KRS 189.212. All funds collected under this subsection shall be expended on those roads covered by the cooperative agreement.

(5) A fiscal court shall not be relieved of expending its normal routine maintenance on all roads covered by cooperative agreements under the provisions of this section.

(6) A person who entered a cooperative agreement with a fiscal court under the provisions of subsection (4) of this section may terminate the agreement by submitting written notice to the fiscal court. If a person terminates a cooperative agreement with a fiscal court, the permit issued under KRS 189.212 shall immediately be revoked by the fiscal court.

Section 5. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222*(10)*[~~(9)~~] or KRS

189.230(4), any of the following trucks, trailers, manufactured homes, or vehicles:

(1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.

(6) Notwithstanding the provisions of this section, any truck hauling building materials to a road construction project on a highway rated less than the maximum weight provided above may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit. This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.

HB 262, AN ACT relating to motor vehicle equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.950 is amended to read as follows:

(1) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal.

(2) ***(a)*** No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle any red***, green,*** or blue flashing, revolving, or oscillating light or place a red***, green, or blue*** light ***anywhere on, in, or under the vehicle where it is visible from***[~~on~~] the front[~~ thereof~~].

(b) This subsection shall not apply to the use of***:***

1. Red flashing lights on school buses or to stop lights or turn signals at the rear of any motor vehicle***; or***

2. A headlight approved by or meeting the requirements of the United States Department of Transportation for use on a motor vehicle.

(3) No motor vehicle, except those designated under KRS 189.910 to 189.950 as public safety vehicles, shall be equipped with, nor shall any person use upon any vehicle any yellow flashing, revolving, or oscillating light. This subsection shall not apply to the use of yellow lights for turn signals; or to emergency flasher lights for use when warning the operators of other vehicles of the presence of a vehicular traffic requiring the exercise of unusual care in approaching, overtaking, or passing; or to vehicles operated by mail carriers while on duty; funeral escort vehicles and church buses.

(4) Any person who is a regular or voluntary member of any fire department furnishing fire protection for a political subdivision of the state or any person who is a regular or voluntary member of a rescue squad may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief of the fire department or rescue squad. He may use such lights and equipment only while proceeding to the scene of a fire or other emergency or to a location where another emergency vehicle is on emergency call in the performance of his official duties as a member of a fire department or rescue squad.

(5) Any constable may, upon approval of the fiscal court in the county of jurisdiction, equip vehicles used by said officer as emergency vehicles with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric condition from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws. Any constable authorized by the fiscal court to utilize blue lights and a siren pursuant to this section shall maintain at least the insurance described by KRS 304.39-110.

(6) Any person who is a paid or voluntary member of any ambulance service furnishing emergency medical services for a political subdivision of the state may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief or director of the ambulance service. He may use such lights and equipment only while proceeding to the scene of an emergency, a medical facility, or to a location where another emergency vehicle is on emergency call in the performance of his official duties as a member of the ambulance service.

HB 292, AN ACT relating to graduated driver's licenses for teenagers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.450 is amended to read as follows:

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar ($6) fee pursuant to KRS 186.531.

(3) An instruction permit shall be valid for one (1) year and may be renewed. ***A person who is at least sixteen (16) years of age and under the age of eighteen (18) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.*** A person ***who is at least eighteen (18) years of age and*** under the age of twenty-one (21) at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license***, and shall not be required to have an intermediate license***. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

(4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway. When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.

(5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. ***and shall not operate a motor vehicle, motorcycle, or moped at any time when accompanied by two (2) or more persons under twenty-one (21) years of age who are not related to the driver*** unless the person can demonstrate good cause for driving including[~~, but not limited to,~~] emergencies, involvement in school related activities, or involvement in work related activities. ***A violation under this subsection shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.***

(6) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.

(7) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25). The twenty-five dollar ($25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) A person who is at least sixteen (16) years of age and under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle in the office of the circuit clerk in the county where the person lives if the person has held an instruction permit a minimum of one hundred eighty (180) days without a violation under subsection (5) of Section 1 of this Act.

(2) If an applicant for an intermediate license successfully passes the road test, an intermediate license sticker shall be affixed to the instruction permit. The State Police shall report that an applicant has successfully passed the road test to the Transportation Cabinet. The Transportation Cabinet shall update the information in its computer system to reflect that the applicant has been granted an intermediate license. An intermediate license shall be valid for two (2) years and may be renewed.

(3) A person shall have the intermediate license in his or her possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.

(4) A person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. and shall not operate a motor vehicle, motorcycle, or moped at any time when accompanied by two (2) or more persons under twenty-one (21) years of age who are not related to the driver unless the person can demonstrate good cause for driving including emergencies, involvement in

school related activities, or involvement in work related activities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

A person under the age of eighteen (18) years may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has:

(1) Held an intermediate license a minimum of one hundred eighty (180) days without a violation of subsection (4) of Section 2 of this Act;

(2) Completed, or is enrolled in, a driver training program as required under KRS 186.410(4), and has not had a conviction for a violation under KRS Chapters 186, 189, or 189A in the previous one hundred eighty (180) consecutive days; and

(3) Presented a statement signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of driving experience including at least ten (10) hours at night.

Section 4. KRS 186.412 is amended to read as follows:

(1) A person ***who is at least eighteen (18) years of age and*** under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit ***or intermediate license*** for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

(d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A nondriver's identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(8) A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 5. KRS 186.470 is amended to read as follows:

(1) The application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license, ***intermediate license,*** or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall be responsible as provided in KRS 186.590. If the minor does not have a father, mother, or guardian, an operator's license***, intermediate license,*** or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. A signature shall not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian, or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection (2) of this section.

(2) A parent or a guardian of a minor applicant may file with the cabinet a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.

(3) The cabinet upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

Section 6. KRS 186.480 is amended to read as follows:

(1) The State Police shall examine every applicant for an ***instruction permit, an intermediate license, and an*** operator's license as identified in KRS 186.6401, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:

(a) The applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the State Police agree to arrange for the examination in the other county; or

(b) The applicant is tested using a bioptic telescopic device.

(2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or

(b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his operator's license to expire.

(3) Any person whose ***instruction permit, intermediate license, or*** operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 7. KRS 186.6401 is amended to read as follows:

The following persons shall be required to successfully complete the examinations required under KRS 186.480 prior to being issued a Kentucky operator's license:

(1) A person who has been issued a Kentucky instruction permit ***or intermediate license***;

(2) A person who has applied for a Kentucky operator's license under KRS 186.412(4); and

(3) Other persons as identified in an administrative regulation promulgated by the Kentucky State Police under KRS Chapter 13A.

The Committee Substitute to **HB 292** is as follows:

HB 292, AN ACT relating to graduated driver's licenses for teenagers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.450 is amended to read as follows:

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar ($6) fee pursuant to KRS 186.531.

(3) An instruction permit shall be valid for one (1) year and may be renewed. ***A person who is at least sixteen (16) years of age and under the age of eighteen (18) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.*** A person ***who is at least eighteen (18) years of age and*** under the age of twenty-one (21) at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license***, and shall not be required to have an intermediate license***. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

(4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.

(5) When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times. [

~~(5)~~]A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. ***and shall not operate a motor vehicle, motorcycle, or moped at any time when accompanied by two (2) or more persons under twenty-one (21) years of age who are not related to the driver*** unless the person can demonstrate good cause for driving including[~~, but not limited to,~~] emergencies, involvement in school related activities, or involvement in work related activities. ***A violation under this subsection or a conviction under KRS Chapter 186, 189, or 189A shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.***

(6) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.

(7) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25). The twenty-five dollar ($25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) A person who is at least sixteen and a half (16 1/2) years of age and under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle if the person has held an instruction permit a minimum of one hundred eighty (180) days without a violation under subsection (5) of Section 1 of this Act or a conviction under KRS Chapter 186, 189, or 189A.

(2) If an applicant for an intermediate license successfully passes the road test, an intermediate license sticker shall be affixed to the instruction permit by the State Police. The State Police shall report that an applicant has successfully passed the road test to the Transportation Cabinet. The Transportation Cabinet shall update the information in its computer system to reflect that the applicant has been granted an intermediate license. An intermediate license shall be valid for two (2) years and may be renewed.

(3) A person shall have the intermediate license in his or her possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.

(4) A person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle,

motorcycle, or moped between the hours of 12 midnight and 6 a.m. and shall not operate a motor vehicle, motorcycle, or moped at any time when accompanied by two (2) or more persons under twenty-one (21) years of age who are not related to the driver unless the person can demonstrate good cause for driving including emergencies, involvement in school related activities, or involvement in work related activities. A violation under this subsection or a conviction under KRS Chapter 186, 189, or 189A shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person under the age of eighteen (18) years may apply for an operator's license.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

A person under the age of eighteen (18) years may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has:

(1) Held an intermediate license a minimum of one hundred eighty (180) days without a violation of subsection (4) of Section 2 of this Act or a conviction under KRS Chapter 186, 189, or 189A;

(2) Completed a driver training program as required under KRS 186.410(4); and

(3) Presented a statement signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of supervised driving experience including at least ten (10) hours at night while accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the applicant at all times.

Section 4. KRS 186.412 is amended to read as follows:

(1) A person ***who is at least eighteen (18) years of age and*** under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit ***or intermediate license*** for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

(d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A nondriver's identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(8) A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 5. KRS 186.470 is amended to read as follows:

(1) The application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license, ***intermediate license,*** or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall be responsible as provided in KRS 186.590. If the minor does not have a father, mother, or guardian, an operator's license***, intermediate license,*** or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. A signature shall not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian, or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection (2) of this section.

(2) A parent or a guardian of a minor applicant may file with the cabinet a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.

(3) The cabinet upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

Section 6. KRS 186.480 is amended to read as follows:

(1) The State Police shall examine every applicant for an ***instruction permit, an intermediate license, and an*** operator's license as identified in KRS 186.6401, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:

(a) The applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the State Police agree to arrange for the examination in the other county; or

(b) The applicant is tested using a bioptic telescopic device.

(2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or

(b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his operator's license to expire.

(3) Any person whose ***instruction permit, intermediate license, or*** operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 7. KRS 186.6401 is amended to read as follows:

The following persons shall be required to successfully complete the examinations required under KRS 186.480 prior to being issued a Kentucky operator's license:

(1) A person who has been issued a Kentucky instruction permit ***or intermediate license***;

(2) A person who has applied for a Kentucky operator's license under KRS 186.412(4); and

(3) Other persons as identified in an administrative regulation promulgated by the Kentucky State Police under KRS Chapter 13A.

Section 8. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(2), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4)(a), 186.210, 186.230, or KRS 186.655 to

186.680 shall be guilty of a violation.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.

(3) A person who violates the provisions of KRS 186.450(4) or (5) ***or subsection (3) or (4) of Section 2 of this Act*** shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.

(4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

HB 304, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.103 is amended to read as follows:

As used in KRS 177.106, unless the context otherwise requires:

(1) "Roads" includes highways, bridges and bridge approaches.

(2) "Encroachment" means any improvement to land constructed, created or implemented or any change from the original contour thereof, including but not limited to buildings, fences, ditches, embankments, driveways or signs, which hinders or prevents use or maintenance of roads or rights-of-way.

(3) "Person" means any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, cooperative or any other group or combination acting as a unit.

(4) "County roads" has the same meaning as in KRS 178.010.

Section 2. KRS 177.106 is amended to read as follows:

(1) Before any person shall proceed to cause or continue or allow to remain in existence any encroachment under, on or over any part of the right-of-way of a state ***road, he or she***[~~highway he~~] shall first obtain ***a permit*** from the Department of Highways[~~a permit so to do~~]. Any encroachment heretofore or hereafter placed or allowed to continue or remain under, on or over any ***state*** road which is found by the Department of Highways to be interfering in any way with the safe, convenient and continuous use and maintenance of ***the***[~~such~~] road shall upon thirty (30) days notice to the person or to his chief agent by the Department of Highways be removed or relocated by ***the***[~~such~~] person at his ***or her*** own expense.

(2) Whenever an order of the Department of Highways requires ***the***[~~such~~] removal or change in location of any encroachment from the right-of-way of a ***state*** road***,*** and the person causing ***the***[~~such~~] encroachment or allowing ***the encroachment***[~~same~~] to continue or remain fails to remove or change ***the*** location of ***the encroachment***[~~same~~] at his ***or her*** own expense to conform to the order within the time stated in the notice, the Department of Highways shall proceed to cause the encroachment to be removed; the expense thereby incurred shall be paid out of any money available therefor, and shall be charged against the person and levied and collected and paid into the State Treasury as provided by law.

(3) Before any person shall proceed to cause or continue or allow to remain in existence any encroachment under, on, or over any part of the right-of-way of a county road, he or she shall first obtain a permit from the county road engineer or county road supervisor employed under the provisions of KRS 179.020. Any encroachment heretofore or hereafter placed or allowed to continue or remain under, on, or over any county road which is found by the county road engineer or county road supervisor to be interfering in any way with the safe, convenient, and continuous use and maintenance

of the road shall upon thirty (30) days notice to the person or to his or her chief agent by the county road engineer or county road supervisor be removed or relocated by the person at his or her own expense.

(4) Whenever the county road engineer or county road supervisor requires the removal or change in location of any encroachment from the right-of-way of a county road, and the person causing the encroachment or allowing the encroachment to continue or remain fails to remove or change the location of encroachment at his or her own expense to conform to the order within the time stated in the notice, the county road engineer or county road supervisor shall proceed to cause the encroachment to be removed; the expense thereby incurred shall be paid out of any money available therefor, and shall be charged against the person and levied and collected and paid into the county road fund.

(5) All county road engineers and county road supervisors shall follow the guidelines established by the Transportation Cabinet relating to the issuance and enforcement of encroachment permits.

HB 310, AN ACT relating to driver training and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Department" means the Department of Kentucky State Police;

(2) "Commissioner" means the Commissioner of the Kentucky State Police;

(3) "Driver training" means instruction of persons in the operation of motor vehicles which are not commercial motor vehicles;

(4) "Driver training school" means any person, firm, partnership, association or corporation which offers a course of driver training for which a fee or tuition is charged;

(5) "Person," when referring to a driver training school, means person, firm, partnership, association, or corporation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

(1) A person shall not operate, conduct, maintain or establish a driver training school unless the person holds a valid current license issued by the department.

(2) A person shall not operate, conduct, maintain, or establish a driver training school unless the school has in its employ at least one (1) licensed driver training instructor.

(3) A person shall not act as an instructor for a driver training school unless the person:

  (a) Holds a valid current license as an instructor issued by the department; and

  (b) Is employed by a licensed driver training school.

SECTION 3. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

(1) Any person seeking a license to operate, conduct, maintain, or establish a driver training school shall apply to the department on forms prepared and furnished by the department. The notarized application shall include the following information:

  (a) The title or name of the school, the names of the owners of the school and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;

  (b) Except for corporations, a statement that the owners of the driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the driver training school license, and are each of good moral character;

  (c) A description of the established place of business together with the hours during which the driver training school is conducted and a description of the equipment and facilities used in driver training;

  (d) Evidence of liability insurance coverage of the driver training school, the instructor, and students of the driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars ($25,000) for bodily injury or death of one (1) person in any one accident and subject to the limit for any one (1) person, fifty thousand dollars ($50,000) for bodily injury or death of two (2) or more persons in any one (1) accident and ten thousand dollars ($10,000) for damage to the property of others in any one (1) accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the secretary. Upon request by an applicant, the department shall review an application and provide a letter to the applicant that a proposed driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform driver's training or to operate a school.

(2) Each original application for a license to operate a driver training school and each application for renewal of a license

to operate a driver training school shall be accompanied by the payment of a fee of three hundred dollars ($300) to the State Treasurer.

(3) Any person seeking a license to act as a driver training instructor shall apply to the department on forms prepared and furnished by the department setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license issued by the Transportation Cabinet.

(4) Each original application for a license as a driver training instructor and each application for renewal of a license as a driver training instructor shall be accompanied by the payment of a fee of fifty dollars ($50) to the State Treasurer.

SECTION 4. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

(1) Upon receipt of a satisfactory application accompanied by the fee required under Section 3 of this Act, the commissioner shall issue a license to the applicant.

(2) If the license is issued to a driver training school, it shall be posted and at all times displayed in a conspicuous place so that all persons visiting the school may readily see the license.

(3) If the license is issued to a driver training instructor, the person shall carry the license at all times during which the person is actually giving instruction to any student. Upon request, the instructor shall exhibit the license to any student taking instruction from him or her and to any other person authorized by law to examine operator's licenses.

SECTION 5. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

(1) Every license issued for the operation of a driver training school shall expire on June 30 following the date of the issuance unless revoked or canceled.

(2) Before June 1 of each year every driver training school shall apply for renewal of its license. The application shall be on forms prepared and furnished by the department.

(3) Every license issued to a driver training instructor shall expire on June 30 following the date of the issuance unless revoked or canceled.

(4) Before June 1 of each year every driver training instructor shall apply for renewal of his or her license. The application shall be on forms prepared and furnished by the department.

(5) All fees collected under this chapter or the administrative regulations promulgated pursuant to this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used in defraying the costs and expenses of the administration of this chapter. No part of this fund shall revert to the general funds of the Commonwealth.

SECTION 6. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

The commissioner shall, upon receipt of satisfactory evidence, suspend, revoke, refuse to issue or refuse to renew the license of a driver training school or a driver training instructor if:

(1) The licensee fails or refuses to comply with the provisions of this chapter or any administrative regulation promulgated pursuant to this chapter;

(2) The licensee has made a false material statement or has concealed a material fact in connection with his or her application;

(3) The licensee or any partner, or other person directly interested in the driver training school held a license issued under this chapter which was revoked or suspended and not reinstated;

(4) The licensee has been guilty of a fraudulent practice in attempting to obtain for himself, herself, or another a license to operate a motor vehicle;

(5) Written notice of the cancellation of insurance required by Section 3 of this Act is received by the commissioner and the licensee does not present satisfactory evidence of insurance to the commissioner prior to the effective date of the cancellation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

Any person whose license to conduct a driver training school or act as a driver training instructor has been suspended or revoked, or whose application for issue or renewal of a license is refused, may request a hearing. The hearing request shall be in writing addressed to the commissioner who shall conduct a hearing thereon as soon as possible. The hearing shall be conducted in accordance with KRS Chapter 13B. Any person may appeal from the final order of the commissioner in the Franklin Circuit Court in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

(1) Every driver training school and driver training instructor shall maintain records showing the name, address, and instruction permit or operator's license number of each person to whom instruction is given. The records shall also indicate the type of instruction given and the length of time of the instruction.

(2) The records required by this section to be maintained shall be available for inspection by the department, but shall otherwise remain confidential.

SECTION 9. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

This chapter shall not apply to:

(1) Any school or educational institution which offers to full-time, regularly enrolled students as a part of its curriculum a course in driving instruction;

(2) Automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles;

(3) Employers who give instruction without charge to their employees; or

(4) Any college within the Kentucky Community and Technical College System, which is located in a county where there is not a school licensed pursuant to this chapter, and which offers to part-time students a course in drivers' instruction.

SECTION 11. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 2 of this Act, subsections (2) and (3) of Section 4 of this Act, or Section 8 of this Act shall be fined not less than $100 nor more than $300 or be imprisoned for not less than ten (10) days nor more than thirty (30) days, or both.

Section 12. Whereas, it is critical to the interests of public safety of the citizens of the Commonwealth of Kentucky that private driving schools be properly licensed and regulated; and whereas, the 2002 Session of the Kentucky General Assembly enacted House Bill 190, which strengthened requirements for commercial driver's licensing schools, but also repealed those provision of Kentucky Revised Statute Chapter 332 providing for the licensing and regulation of private driving schools, raising questions as to how these schools could or should be regulated and licensed, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

HJR 78, A JOINT RESOLUTION naming a segment of United States Route 421 in Leslie County in honor of Carl Wilson.

WHEREAS, Carl Wilson proudly served his country as a member of the Signal Corps for the United States Army during World War II; and

WHEREAS, a graduate of Cumberland College, Carl Wilson was a dedicated teacher for twenty-eight years and was Principal of the Liggett School in Harlan; and

WHEREAS, a civic leader, Carl Wilson helped to initiate and coach Little League Baseball and Babe Ruth Baseball, as well as initiate and coach basketball programs for Beech Fork Elementary School and the entire Beech Fork community; and

WHEREAS, Carl Wilson also helped to establish men's amateur softball in Leslie County; and

WHEREAS, a devoutly religious man, Carl Wilson was a long time member of the Beech Fork United Methodist Church and served as Choir Leader for the congregation; and

WHEREAS, Carl Wilson was active in local, state, and national politics;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, name the segment of United States Route 421 from the Harlan/Leslie County line to Beechfork Elementary School in Leslie County the "Carl Wilson Highway." The cabinet shall name the segment of United States Route 421 in honor of Carl Wilson, regardless of whether the segment is also named in honor of another individual. Naming the segment in honor of Carl Wilson shall be in addition to the honor recognizing another individual person and shall not supersede the other name.

Section 2. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs on the segment of United States Route 421 from the Harlan/Leslie County line to Beechfork Elementary School in Leslie County that read "Carl Wilson Highway." If the segment is also named in honor of another individual, the cabinet shall erect separate signs recognizing both Carl Wilson and the other individual.

HJR 90, A JOINT RESOLUTION memorializing former State Representative Richard "Hoppy" Hopkins.

WHEREAS, Richard Hopkins was a vital force in the educational, political, and civic life of McLean County for his entire life; and

WHEREAS, Richard Hopkins dedicated his life to the education of children through his work as an agriculture and industrial arts teacher in the McLean County schools; and

WHEREAS, Richard Hopkins continued this work as an administrator, serving as McLean County School Superintendent; and

WHEREAS, Richard Hopkins also served as Mayor of the City of Calhoun and as McLean County Judge-Executive; and

WHEREAS, Richard Hopkins was selected four times by the people of McLean County to be their State Representative, in

1958, 1960, 1966, and 1968; and

WHEREAS, Richard Hopkins should be remembered fondly and tangibly for a life spent in service to others;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the Kentucky Route 136 in McLean County from the Green River to the intersection of Kentucky Route 81 the "Richard "Hoppy" Hopkins Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the bridge specified in Section 1 of this Act that read "Richard "Hoppy" Hopkins Memorial Highway."

HJR 94, A JOINT RESOLUTION memorializing Absalom Redmon Shacklett.

WHEREAS, Absalom Redmon Shacklett played a prominent role in the history of McLean County; and

WHEREAS, Absalom Redmon Shacklett fought bravely during the Civil War; and

WHEREAS, Absalom Redmon Shacklett served as Postmaster for the city of Island; and

WHEREAS, Absalom Redmon Shacklett also served the people of McLean County as a state legislator;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge on Kentucky Route 85 over the Green River east of Island in McLean County the "Absalom Redmon Shacklett Memorial Bridge."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at each end of the bridge specified in Section 1 of this Act that read "Absalom Redmon Shacklett Memorial Bridge."

HJR 97, A JOINT RESOLUTION naming the "Dr. Loman C. Trover Highway" in Hopkins County.

WHEREAS, Loman Trover is a native of Earlington in Hopkins County, the son of Ruth and Barton Trover and the brother of Faull Trover and Katherine Davis; and

WHEREAS, at a young age Loman Trover decided to pursue a medical career; and

WHEREAS, after applying to the University of Louisville School of Medicine, Loman Trover was the recipient of one of the first Rural Health Scholarships awarded by the Kentucky Medical Association; and

WHEREAS, Dr. Loman Trover graduated from the University of Louisville School of Medicine in 1947; and

WHEREAS, Dr. Loman Trover met his lovely wife Helen Elizabeth, a nurse, while in medical school in Louisville and they were married on February 1, 1948; and

WHEREAS, Dr. and Mrs. Loman Trover returned to Earlington to start a general medical practice as well as a family; and

WHEREAS, Dr. and Mrs. Loman Trover proudly raised their six children, Stephanie, Kathy, Phillip, Michael, Regina, and Lorrie in Earlington; and

WHEREAS, Dr. Loman Trover has been quoted as saying "Those first years out of medical school, I became very disturbed at the scope of medicine available here in Hopkins County. Family physicians were really just operating in a triage capacity. We did not have the means to diagnose and treat even the simplest problems. I felt we had to take more responsibility for our patients' care, and the consequences of our decisions. We (Loman and his brother Faull) concluded that we had to do one of two things. We were going to change what was here or leave the area and pursue our own specialty interests. We decided to attempt to change things by starting a group practice."; and

WHEREAS, in 1952 Dr. Loman Trover and his brother Faull began their search for a diverse group of doctors who would share their vision to improve health care in Hopkins County; and

WHEREAS, in 1953 the first Trover Clinic Group Practice opened and by 1958 had sixteen physicians which was the largest group practice at the time in the state, and was composed of medical, surgical, pediatrics, and ob/gyn clinical divisions, as well as having radiology, pathology, and anesthesiology support services; and

WHEREAS, the substantial growth of the Trover Clinic resulted in rapid expansion of the local hospital in which Dr. Loman Trover was instrumental in the successful additions and in 1977, led to the creation of the Regional Medical Center of Hopkins County; and

WHEREAS, Dr. Loman Trover was a member of the Hopkins County Health Department for many years and helped coordinate public and private medical services to eliminate duplication and increase services available to the community; and

WHEREAS, as the Trover Clinic's role in community health care grew, Dr. Loman Trover saw the importance of providing to local and regional students medical educational programs that among many others include 1. The Field Professorship Program, an experimental program that trains medical students in the concepts of community medicine and served as a model for six other programs around Kentucky, 2. the Allied Health Occupations School which trains licensed practical nurses, respiratory therapists, lab assistants, radiology and operating room technicians, ward clerks, and medical secretaries, 3. The Family Practice Residency Program which trains physicians for three years after medical school preparing them to practice in rural settings, and 4. The Surgery Project which trains third year medical students in surgery instruction; and

WHEREAS, in 1995 Dr. Loman Trover's long time dream became a reality when he was able to move the Sports Medicine and Rehabilitation Center from the former Hopkins County Hospital building into a new state-of-the-art facility; and

WHEREAS, in 2002, the Trover Foundation opened the Center for Heart and Vascular Services and the Center for Women's Health next to the regional hospital; and

WHEREAS, in addition to the original Trover Clinic in Earlington, there are now Trover Clinic branch offices in Providence, Morganfield, Dawson Springs, Hopkinsville, Princeton, Eddyville, Calhoun, and Clay; and

WHEREAS, Dr. Loman's committment to improving his community helped bring several industries to Hopkins County including Goodyear, General Electric, and Mid-America Canning; and

WHEREAS, throughout his distinguished career, Dr. Loman Trover received the following awards and honors: the Kentucky Hospital Association's Award of Excellence; Distinguished Alumnus Award, University of Louisville Medical Alumni Association; Ad Astra Award, University of Louisville School of Medicine; Kentucky Medical Association Educational Achievement Award; Russell V. Lee Lecture and Award, American Group Practice Association; Award for outstanding contributions to medicine in the state of Kentucky, Kentucky Academy of Family Physicians; Distinguished Service Award, Greater Madisonville Area Chamber of Commerce; Alumni Fellows Award, University of Louisville; Honorary Doctor of Science, University of Kentucky; Commonwealth of Kentucky Council on Higher Education Recognition of Service Award; Distinguished Alumni Citation in Science Award, Transylvania University; Honorary Doctor of Humane Letters, Honoris Causa, Transylvania University; Wade Mount Visionary Award, Kentucky Healthcare Strategy Forum; and the library at the Madisonville Community College was named The Loman C. Trover Library; and

WHEREAS, also among Dr. Loman Trover's many achievements were membership in the Alpha Omega Alpha Medical Society, past President of the American Group Practice Association, past member of the Board of Directors of the Regional Medical Center of Hopkins County, past member of the Kentucky Council on Higher Education, past Chairman of the Health Services Advisory Committee of the Kentucky Cancer Commission, past member of the J. Graham Brown Regional Cancer Center, past member of the Medical Advisory Committee of the Kentucky Cancer Commission, charter member of the American Academy of Medical Directors, past President of the Madisonville-Hopkins County Chamber of Commerce, past Chairman of the First Federal Savings and Loan Company, past Board Member for the Peoples Bank and Trust Company, past Advisory Board Member of the Citizens Bank of Kentucky, past member of the Governor's Task Force on Health Care Access and Affordability, Chairman Emeritus of the Trover Foundation, Chairman of Regional Health Care Affiliates, CEO Emeritus of the Trover Clinic, Board Member of the Hopkins County Development Corporation, and Board Member of the Madisonville-Hopkins County Economic Development Corporation; and

WHEREAS, Dr. Loman Trover's legacy will be that he wanted to bring medicine to the people rather than take the people to the medicine;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly proclaim Dr. Loman C. Trover to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet shall name Kentucky Route 112 the "Dr. Loman C. Trover Highway" beginning at the intersection of Main Street and Railroad Street in Earlington, Kentucky and continuing to the junction of Kentucky Route 112 and United States Route 62.

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution erect signs that read the "Dr. Loman C. Trover Highway" on Kentucky Route 112 beginning at the intersection of Main Street and Railroad Street in Earlington, Kentucky and continuing to the junction of Kentucky Route 112 and United States Route 62.

HJR 110, A JOINT RESOLUTION naming Kentucky Route 1786 in Rockcastle County the "Ballard Parsons Highway" and declaring an emergency.

We pause to honor our native son, Ballard Parsons, who has enriched the lives of every soul he has encountered.

WHEREAS, Ballard Parsons was stricken with polio in 1952 and spent eleven months in a hospital in Lexington, ten of those months fighting for his life while confined to an iron lung; and

WHEREAS, Ballard Parsons completed his high school education and earned his diploma through the home bound school program; and

WHEREAS, in April of 1953, Ballard Parsons' father purchased a grocery store in Wildie, Kentucky, a small community in Pulaski County; and

WHEREAS, Ballard Parsons was given full responsibility for managing and operating the store, known as Ballard's Grocery, even though he was wheelchair bound; and

WHEREAS, Ballard Parsons never let adversity stand in the way of living a complete and happy life; and

WHEREAS, Ballard Parsons has been a positive influence on the entire Wildie community and Ballard's Grocery has become an important community gathering place where friends meet to play checkers, pick up milk, bread, or soft drinks, and to discuss and contemplate current events; and

WHEREAS, 2003 marks the fiftieth year Ballard Parsons has been a merchant serving the needs of his community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, proclaim Ballard Parsons to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet shall name Kentucky Route 1786 in Rockcastle County the "Ballard Parsons Highway".

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on Kentucky Route 1786 in Rockcastle County that read "Ballard Parsons Highway".

Section 4. Whereas Ballard Parsons' health is very frail, an emergency is declared to exist and this Resolution takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HJR 112, A JOINT RESOLUTION honoring Howard J. Hoess of Pendleton County.

WHEREAS, Howard Hoess, a native of Bellvue, Kentucky, has become a fixture in the civic and community life of Pendleton County; and

WHEREAS, Howard Hoess has operated a Dairy Queen restaurant in Falmouth for over twenty years; and

WHEREAS, in that time, Howard Hoess has been a tireless supporter of youth and school activities, giving time and donations to the 4-H Club, local schools and high school athletic teams, and youth sports teams; and

WHEREAS, Howard Hoess also donated time and effort to support the American Legion and the local Chamber of Commerce; and

WHEREAS, Howard Hoess is the loving husband of the former Patty Ammerman, and proud father of two sons, Tony and Jeff, a stepson, Dean, and a stepdaughter, Angie; and

WHEREAS, Howard Hoess should be recognized and honored for a life well lived in support of his community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, proclaim Howard J. Hoess to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet is directed to name United States Route 27 in the city of Falmouth, from the intersection with Dickerson Lane (mile point 7.912) to the intersection with Wilson Street (mile point 7.985), the "Howard J. Hoess Highway."

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs at each end of the section of United States Route 27 described in Section 2 of this Resolution that read the "Howard J. Hoess Highway."

The Committee on Economic Development reported **HB 119,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 119, AN ACT relating to faith-based community development initiatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.12-215 is amended to read as follows:

(1) The duties of the Department of Community Development shall include but not be limited to:

(a) Collecting, summarizing, and disseminating information helpful to minority businesses ***and faith-based community organizations***, including information on:

1. Market research;
2. New business opportunities;
3. Federal, state, and local minority business programs; and
4. The availability of managerial assistance programs within the state educational system;

(b) Assisting minority businesses ***and faith-based community organizations*** with federal, state, and local government agencies, regulations, and procurement programs.

(c) Providing staff assistance to the council;

(d) Providing information on federal, state, and local small business programs and regulations;

(e) Making referrals to managerial assistance programs within the state educational system; and

(f) Introducing entrepreneurs to individual investors and to investment capital firms interested in start-up and early-stage financing.

(2) The commissioner is designated a small business ombudsman and shall:

(a) Receive and refer complaints of small business ***and of faith-based community organizations*** to the council and the appropriate administrative bodies;

(b) Coordinate the activities of all administrative bodies performing functions affecting the operation of small business ***and of faith-based community organizations*** in the Commonwealth;

(c) Represent the interests of the council***, faith-based community organizations,*** and small businesses in the Commonwealth before federal, state, and local administration and regulatory agencies; and

(d) Prepare an annual report of the activities and recommendations of the council and submit the report to the Governor and the appropriate legislative committee having jurisdiction over small business matters.

Section 2. KRS 154.12-223 is amended to read as follows:

(1) There is created within the Cabinet for Economic Development the Department of Community Development, which shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall work with each Kentucky county in:

(a) Determining a long-range plan for economic development which best meets the individual county's needs; and

(b) Developing cooperative interaction with existing industries and small and minority businesses and assisting export development.

(2) The Department of Community Development shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

(a) The Division of Business and Entrepreneurship Development, which shall be responsible for procurement assistance, business information clearinghouse services, and business and technology functions of the cabinet, including, without being limited to:

1. Providing comprehensive information on all state business licenses and requirements;

2. Developing and administering a master application and licensure program for grocery stores;

3. Coordinating and monitoring the various activities being carried out by state agencies that relate to adapting advanced technologies to the workplace; and

4. Reviewing and analyzing the possibility of establishing research and technology centers in the Commonwealth;

(b) The Small and Minority Business Division, which shall be responsible for the cabinet's functions relating to small and minority business enterprise, as provided in KRS 154.12-215. The Small Business Advisory Council established by KRS 154.12-218 shall advise the division;

(c) The Western Kentucky Economic Development Division;

(d) The Eastern Kentucky Economic Development Division;

(e) The Central Kentucky Economic Development Division; and

(f) The International Trade Division, which shall promote the development of international markets for Kentucky goods, products, and services for the purpose of identifying and analyzing national and international market developments and opportunities, and gathering and disseminating vital information to Kentucky manufacturers, service providers, and other industries regarding international trade opportunities.

(3) The following programs and commission shall be attached to the Department of Community Development:

(a) The Kentucky port and river development program created by KRS 65.510 to 65.530, KRS 139.483, and KRS 154.80-100 to 154.80-130;

(b) The Waterway Marina Development Program established by KRS 154.80-310;[~~ and~~]

(c) The Kentucky Investment Capital Network established by KRS 154.12-2333***; and***

(d) The Faith-Based Community Development Initiative Program established by Section 3 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the Department of Community Development the Faith-Based Community Development Initiative Program. This program shall provide training and technical assistance to help faith-based nonprofit

organizations provide services and local programs for low and moderate-income families, including but not limited to services to community members who are in transition from public assistance to self-sufficiency and employment, and community members who are eligible for medical assistance. The program shall provide grants, as funds are available, to assist faith-based organizations to provide these services.

(2) The commissioner of the Department of Community Development shall:

(a) Employ an executive director and staff members as necessary for the Faith-Based Community Development Initiative Program;

(b) Develop a plan, with the assistance of the Faith-Based Community Development Initiative Advisory Board established under Section 4 of this Act, describing the objectives of the Faith-Based Community Development Initiative Program and detailing the methods by which the department shall coordinate private and public sector efforts to provide assistance to residents of low and moderate income; and

(c) Coordinate and cooperate with other state and local public and private entities that provide services to residents of low and moderate income.

(3) The commissioner of the Department of Community Development shall promulgate administrative regulations under KRS Chapter 13A to require that each faith-based nonprofit organization receiving assistance under the program shall:

(a) Possess tax-exempt status, distinct from the house of worship, under 26 U.S.C. sec. 501(c), or be covered by a group ruling issued by the Internal Revenue Service under authority of that section;

(b) Not discriminate against any employee or applicant for services because of the age, race, creed, religion, national origin or nationality, ancestry, marital or familial status, sex, or any type of disability of the person or group of persons;

(c) Provide services to the community in a culturally and ethnically appropriate manner;

(d) Deposit federal, state, and local government funds received for the provision of services under the Faith-Based Community Development Initiative Program in a separate account to be used only for initiatives and programs eligible for funding under subsection (5) of this section. Funds in the account shall not be used for worship, religious instruction, proselytizing, or other sectarian purposes; and

(e) Not require participation in religious activities as a condition of receiving services under the Faith-Based Community Development Initiative Program.

(4) The commissioner of the Department of Community Development shall provide assistance to faith-based nonprofit organizations selected through a competitive application process, established thorough an administrative regulation in accordance with KRS Chapter 13A.

(5) The following initiatives and programs shall be eligible for funding through the Faith-Based Community Development Initiative Program:

(a) Career development and job training;

(b) Employment support services, including but not limited to child care programs, transportation services, and health care programs;

(c) Employment assistance programs, including but not limited to resume writing and interviewing skills;

(d) Substance abuse programs;

(e) Educational programs;

(f) Senior citizen programs; and

(g) Any other program deemed appropriate by the commissioner of the Department of Community Development.

(6) A recipient of services that are funded, in whole or in part, by federal, state, or local government grants under the Faith-Based Community Development Initiative Program shall be notified of his or her right to receive services from an alternate provider that is unobjectionable to the recipient on religious grounds.

SECTION 4. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Faith-Based Community Development Initiative Advisory Board is established under the Department of Community Development for the purposes of making recommendations to the commissioner of the Department of Community Development regarding policies, funding priorities, and long-term planning of the program.

(2) The board shall consist of the following members:

(a) Six (6) members representative of the various religious groups in the Commonwealth, to be appointed by the Governor;

(b) Six (6) members representative of ethnic and racial groups in the Commonwealth, to be appointed by the Governor;

(c) The Governor or the Governor's designee;

(d) Two (2) members of the Senate, appointed by the President of the Senate, with one (1) being from the majority party and one (1) being from the minority party;

(e) Two (2) members of the House of Representatives, appointed by the Speaker of the House, with one (1) being from the majority party and one (1) being from the minority party; and

(f) The secretary of the Cabinet for Economic Development, the secretary of the Labor Cabinet, the secretary of the Cabinet for Health Services, and the secretary of the Cabinet for Families and Children, or their designees, shall serve as ex officio members.

(3) The members of the advisory board, by a majority vote, shall designate a chairperson.

(4) The appointed members of the board shall serve a term of three (3) years, and each member may be reappointed for one (1) additional term.

(5) At the end of a term, a member of the advisory board shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member of the advisory board who serves two (2) consecutive full three (3) year terms shall not be reappointed for three (3) years after the completion of those terms.

(6) A majority of the full membership of the advisory board shall constitute a quorum.

(7) Members of the board shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement.

SECTION 5. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is established and created in the State Treasury a fund entitled the "faith-based community development initiative fund." The fund may receive:

(a) State appropriations;

(b) Gifts;

(c) Grants;

(d) Federal funds;

(e) Interest earned by investment of moneys held in the fund; and

(f) Any other public and private funds.

(2) The commissioner of the Department of Community Development shall administer the fund.

(3) Moneys deposited in the fund shall be used solely for purposes related to faith-based community development initiatives. The fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year.

Section 6. Of the members initially appointed under paragraphs (a) and (b) of subsection (2) of Section 4 of this Act, four (4) shall be designated to serve a one (1) year term, four (4) shall be designated to serve a two (2) year term, and four (4) shall be designated to serve a three (3) year term.

The Committee Substitute to **HB 119** is as follows:

HB 119, AN ACT relating to faith-based community development initiatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is directed to study the feasibility of establishing a Faith-Based Community Development Initiative Program to provide training, technical assistance, and grant funding to help faith-based nonprofit organizations provide services and local programs for low and moderate-income families, including but not limited to services to community members who are in transition from public assistance to self-sufficiency and employment, and community members who are eligible for medical assistance.

Section 2. The Legislative Research Commission staff shall conduct the study and report its findings to the Legislative Research Commission on or before November 1, 2003, for distribution to the appropriate committee or committees.

Section 3. Provisions of this Act notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HB 119** is as follows:

HB 119, Amend the title to read "AN ACT relating to a study on the feasibility of a Faith-Based Community Development Initiative Program.".

The Committee on Appropriations and Revenue reported **HB 269,** with Committee Substitute and Committee Amendments attached thereto, and **HJR 83** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 269** is as follows:

HB 269, AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part XI, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2002-03	2003-04
General Fund	7,452,100	7,517,600
Restricted Funds	1,681,000	2,144,000
Federal Funds	71,000	71,000
TOTAL	9,204,100	9,732,600

Included in the above General Fund appropriation is $750,000 in fiscal year 2003-2004, which shall be transferred to the credit of the General Fund, effective December 1, 2003. Included in the above General Fund appropriation is $250,000 in fiscal year 2003-2004 which shall be utilized to provide the state's share of federal matching requirements for a grant from the U.S. Department of Energy to the Purchase Area in Western Kentucky to support land use and development in the Purchase Regional Industrial Park Authority. Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Office of State Budget Director

	2002-03	2003-04
General Fund	3,365,000	3,365,000
Restricted Funds	923,000	1,318,000
TOTAL	4,288,000	4,683,000

c. State Planning Fund

	2002-03	2003-04
General Fund	477,000	0

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a grant of $25,000 in fiscal year 2002-2003 to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2002-03	2003-04
General Fund	11,294,100	10,882,600

Restricted Funds	2,604,000	3,462,000
Federal Funds	71,000	71,000
TOTAL	13,969,100	14,415,600

2. GOVERNOR'S OFFICE FOR TECHNOLOGY

	2002-03	2003-04
General Fund	300,000	300,000
Restricted Funds	60,092,500	59,718,000
Federal Funds	1,225,000	0
Road Fund	125,000	125,000
TOTAL	61,742,500	60,143,000

Included in the above Restricted Funds appropriation is $536,000 in fiscal year 2002-2003 and $536,000 in fiscal year 2003-2004 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

3. DEPARTMENT OF VETERANS' AFFAIRS

	2002-03	2003-04
General Fund	14,072,800	15,163,700
Restricted Funds	18,609,100	19,332,000
TOTAL	32,681,900	34,495,700

4. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

	2002-03	2003-04
General Fund (Tobacco)	2,188,400	2,188,400
General Fund	213,500	213,500
Restricted Funds	50,000	0
Federal Funds	175,000	175,000
TOTAL	2,626,900	2,576,900

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2002-03	2003-04
General Fund	0	3,311,000
Restricted Funds	6,067,500	2,568,000
Federal Funds	50,313,000	50,312,000
TOTAL	56,380,500	56,191,000

Included in the above General Fund appropriation is $3,311,000 in fiscal year 2003-2004 for debt service, including $2,283,000 for the Kentucky Pride Program.

6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2002-03	2003-04
General Fund (Tobacco)	47,688,000	39,434,000
Restricted Funds	155,900	161,000
TOTAL	47,843,900	39,595,000

7. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2002-03	2003-04
General Fund (Tobacco)	2,574,800	2,236,600
General Fund	1,250,000	1,250,000
Federal Funds	111,700	111,700
TOTAL	3,936,500	3,598,300

8. SECRETARY OF STATE

	2002-03	2003-04
General Fund	4,360,100	2,260,100
Restricted Funds	878,500	1,006,600

TOTAL	5,238,600	3,266,700

Included in the above General Fund appropriation is $2,100,000 in fiscal year 2002-2003 (contingent upon the passage of enabling legislation) which directs the Secretary of State to implement the provisions of the Help America Vote Act as stated in Part IX, Special Provisions, of this Act. Notwithstanding KRS 45.229, any funds unexpended by the Secretary of State from the Election Reform Fund at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund shall not lapse, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in the enabling legislation. Notwithstanding KRS 14.140, the above Restricted Funds appropriations shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch.

9. BOARD OF ELECTIONS

	2002-03	2003-04
General Fund	1,281,200	1,188,400
Restricted Funds	108,600	116,900
TOTAL	1,389,800	1,305,300

Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay under the provisions of KRS 116.145, 117.343, and 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

10. TREASURY

	2002-03	2003-04
General Fund	2,216,700	2,216,700
Restricted Funds	815,700	834,500
TOTAL	3,032,400	3,051,200

Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2002-2004 biennium, $807,900 and $834,500 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

11. ATTORNEY GENERAL

	2002-03	2003-04
General Fund	13,075,000	13,381,700
Restricted Funds	6,747,400	7,269,900
Federal Funds	2,351,400	2,351,400
TOTAL	22,173,800	23,003,000

Included in the above General Fund appropriation is $120,100 in fiscal year 2002-2003 and $449,200 in fiscal year 2003-2004 for an 11 percent salary adjustment for staff attorneys, effective April 1, 2003.

The $30,000 continuing General Fund appropriation from fiscal year 2001-2002 is for the purpose of notifying consumers, not otherwise notified by Ford Motor Company, of their eligibility for possible restitution as a result of the multistate settlement agreement with Ford Motor Company. Since the settlement award was not deposited prior to the end of fiscal year 2001-2002, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement did not lapse, notwithstanding KRS 45.229, and was carried forward into fiscal year 2002-2003 for the same purpose. If the settlement award is deposited subsequent to fiscal year 2002-2003, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2003-2004 for the same purpose.

12. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2002-03	2003-04
General Fund	25,108,000	26,545,300
Restricted Funds	843,300	200,000
Federal Funds	976,300	739,300
TOTAL	26,927,600	27,484,600

Included in the above General Fund appropriation is $258,400 in fiscal year 2002-2003 and $259,400 in fiscal year 2003-2004 to support a Commonwealth's Attorney and staff to service the 57th Judicial Circuit as authorized by the 2001 General Assembly.

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the Commonwealth's Attorneys.

Included in the above General Fund appropriation are funds to provide each full-time Commonwealth's Attorney the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that the Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Included in the above General Fund appropriation is $116,200 in fiscal year 2002-2003 and $106,400 in fiscal year 2003-2004 to provide funding for a full-time Commonwealth's Attorney office in the 40th Judicial Circuit.

Notwithstanding KRS 15.247, 15.705, and 15.750 funds are authorized to support the operations of the Commonwealth's Attorneys.

b. County Attorneys

	2002-03	2003-04
General Fund	21,179,900	22,177,500
Restricted Funds	62,300	4,800
Federal Funds	414,700	434,800
TOTAL	21,656,900	22,617,100

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the County Attorneys.

Included in the above General Fund appropriation are funds to provide each County Attorney the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Notwithstanding KRS 15.247 and 15.705, funds are authorized to support the operations of the County Attorneys.

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2002-03	2003-04
General Fund	46,287,900	48,722,800
Restricted Funds	905,600	204,800
Federal Funds	1,391,000	1,174,100
TOTAL	48,584,500	50,101,700

13. AUDITOR OF PUBLIC ACCOUNTS

	2002-03	2003-04
General Fund	5,260,000	5,235,000
Restricted Funds	3,940,500	4,377,100
TOTAL	9,200,500	9,612,100

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

14. AGRICULTURE

	2002-03	2003-04
General Fund	19,199,900	19,464,900
Restricted Funds	3,506,200	3,573,800
Federal Funds	2,955,000	2,130,000
TOTAL	25,661,100	25,168,700

Included in the above General Fund appropriation is $478,500 in fiscal year 2002-2003 and $478,500 in fiscal year 2003-2004 for the Breathitt Veterinary Center and $370,000 in fiscal year 2002-2003 and $370,000 in fiscal year 2003-2004 for the University of Kentucky for the diagnostic laboratories.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended General Fund moneys appropriated for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint trade office.

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.335. Included in the above General Fund appropriation is $285,000 in fiscal year 2003-2004 for debt service for animal shelter projects.

Included in the General Fund appropriation for the Department of Agriculture is $10,000 in fiscal year 2002-2003 and $10,000 in fiscal year 2003-2004 to support the costs associated with preparing reports for the Kentucky Aquaculture Task Force as directed in Part IX, Special Provisions, Government Operations, Department of Agriculture, in this Act. Notwithstanding KRS

45.229, any unexpended amount at the end of fiscal year 2002-2003 shall not lapse, but shall carry forward to fiscal year 2003-2004. Any unexpended amount remaining following the completion of the reports shall lapse to the credit of the General Fund.

15. MILITARY AFFAIRS

	2002-03	2003-04
General Fund	10,694,400	10,694,400
Restricted Funds	18,680,500	18,796,200
Federal Funds	40,720,900	18,187,800
TOTAL	70,095,800	47,678,400

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $420,000 in each fiscal year for the Youth Challenge Program.

16. PERSONNEL BOARD

	2002-03	2003-04
General Fund	578,500	578,500
Restricted Funds	1,700	1,700
TOTAL	580,200	580,200

17. LOCAL GOVERNMENT

	2002-03	2003-04
General Fund	8,773,900	9,623,800
Restricted Funds	2,235,800	902,400
Federal Funds	52,433,900	52,430,800
TOTAL	63,443,600	62,957,000

Included in the above General Fund appropriation is $1,086,000 in fiscal year 2003-2004 for debt service.

18. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2002-03	2003-04
General Fund	32,866,200	31,184,100

b. Local Government Economic Development Fund

	2002-03	2003-04
General Fund	40,028,300	41,208,400

The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Notwithstanding KRS 42.4582, moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of 47 percent effective July 1, 2002. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at 50 percent effective July 1, 2003. If actual coal severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,407,100 in fiscal year 2002-2003 and $1,480,200 in fiscal year 2003-2004 has been credited to the Osteopathic Scholarship Program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to 14.5 percent in fiscal year 2002-2003. In fiscal year 2003-2004 the amount shall be equal to 15 percent of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004, has been transferred as Restricted Funds to the Department for Regional Development within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $550,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission for related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $960,800 in fiscal year 2002-2003 and $960,800 in fiscal year 2003-2004 has been credited to the Secondary Wood Products Development Fund. The Kentucky Wood Products Competitiveness Corporation shall emphasize job creation in the Eastern and Western Kentucky Coal Regions.

Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-2004 has been credited to the Kentucky Coal Coalition from funds available to the Department for Local Government.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $5,000,000 in each year of the biennium that shall be reserved for the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and 42.4588(5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Cabinet for Economic Development and approved by the Commissioner of the Department for Regional Development in the Cabinet for Economic Development. The projects identified are limited to research and development, commercialization, or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects shall be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

Notwithstanding KRS 42.4588, the Commissioner of the Department for Regional Development, in consultation with affected counties, shall be authorized to approve Local Government Economic Development Fund grants for job training and telecommunications infrastructure projects. The Commissioner is further authorized to prioritize funding of projects in the following order: industrial development projects, job training projects, and any other eligible projects or projects funded out of the Local Government Economic Development Fund.

Notwithstanding KRS 42.4588, the Cabinet for Economic Development is authorized to provide, in fiscal year 2002-2003, $1,000,000 for the East Kentucky Development Alliance to support a revolving loan fund, $1,000,000 to support the Appalachian Regional Hospital Project, and $2,000,000 for the Appalachia Bus Program from the Local Government Economic Development Fund Multi-County Fund.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 2001-2002 to fiscal year 2002-2003 and from fiscal year 2002-2003 to fiscal year 2003-2004 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2002-03	2003-04
General Fund	830,500	830,500

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2002-03	2003-04
General Fund	73,725,000	73,223,000

19. COMMISSION ON HUMAN RIGHTS

	2002-03	2003-04
General Fund	1,926,800	1,926,800
Restricted Funds	24,000	24,000
Federal Funds	572,600	170,800
TOTAL	2,523,400	2,121,600

20. COMMISSION ON WOMEN

	2002-03	2003-04
General Fund	269,900	269,900
Restricted Funds	0	4,600
Federal Funds	0	200
TOTAL	269,900	274,700

21. COMMISSION ON SMALL BUSINESS ADVOCACY

	2002-03	2003-04
General Fund	75,000	75,000
Restricted Funds	45,000	45,000
TOTAL	120,000	120,000

22. KENTUCKY RETIREMENT SYSTEMS

	2002-03	2003-04
Restricted Funds	14,980,500	15,847,500

23. REGISTRY OF ELECTION FINANCE

	2002-03	2003-04
General Fund	1,436,800	1,436,800
Restricted Funds	202,800	203,200
TOTAL	1,639,600	1,640,000

24. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2002-03	2003-04
Restricted Funds	752,700	782,100

b. Alcohol and Drug Counselors

	2002-03	2003-04
Restricted Funds	62,000	65,000

c. Board of Architects

	2002-03	2003-04
Restricted Funds	272,000	258,300

d. Board of Art Therapists

	2002-03	2003-04
Restricted Funds	11,300	11,400

e. Kentucky Athletic Commission

	2002-03	2003-04
Restricted Funds	158,500	167,300

f. Board of Auctioneers

	2002-03	2003-04
Restricted Funds	360,200	370,500

g. Board of Barbering

	2002-03	2003-04
Restricted Funds	225,600	231,500

h. Board of Chiropractic Examiners

	2002-03	2003-04
Restricted Funds	182,800	191,400

i. Board of Dentistry

	2002-03	2003-04
Restricted Funds	474,400	504,400

j. Board of Dietitians and Nutritionists

	2002-03	2003-04
Restricted Funds	67,900	71,500

k. Board of Embalmers and Funeral Directors

	2002-03	2003-04
Restricted Funds	240,400	249,100

l. Board of Engineers and Land Surveyors

	2002-03	2003-04
Restricted Funds	1,291,800	1,354,100

m. Board of Fee-Based Pastoral Counselors

	2002-03	2003-04
Restricted Funds	6,000	6,000

n. Board of Geologists

	2002-03	2003-04
Restricted Funds	133,000	135,000

o. Board of Hairdressers and Cosmetologists

	2002-03	2003-04
Restricted Funds	998,900	1,105,000

The Board of Hairdressers and Cosmetologists is permitted to increase the licensing and renewal fees necessary to provide for the enacted budget expenditure level through administrative regulation.

p. Board of Hearing Instrument Specialists

	2002-03	2003-04
Restricted Funds	50,700	52,700

q. Board of Interpreters for Deaf and Hard of Hearing

	2002-03	2003-04
Restricted Funds	25,000	25,000

r. Board of Landscape Architects

	2002-03	2003-04
Restricted Funds	55,300	57,800

s. Board of Marriage and Family Therapists

	2002-03	2003-04
Restricted Funds	79,200	83,200

t. Board of Medical Licensure

	2002-03	2003-04
Restricted Funds	1,992,500	2,099,900

u. Board of Nursing

	2002-03	2003-04
Restricted Funds	4,695,300	4,268,900

Included in the above Restricted Funds appropriation is $175,000 in each fiscal year for the Nursing Incentive Scholarship Program.

v. Nursing Home Administrators Licensure Board

	2002-03	2003-04
Restricted Funds	69,000	76,200

w. Board of Occupational Therapy

	2002-03	2003-04
Restricted Funds	76,600	86,000

x. Board of Ophthalmic Dispensers

	2002-03	2003-04
Restricted Funds	57,600	62,900

y. Board of Optometric Examiners

	2002-03	2003-04
Restricted Funds	152,400	157,000

z. Board of Pharmacy

	2002-03	2003-04
Restricted Funds	835,000	876,000

aa. Board of Physical Therapy

	2002-03	2003-04
Restricted Funds	263,400	280,000

ab. Board of Podiatry

	2002-03	2003-04
Restricted Funds	14,500	15,500

ac. Board of Professional Counselors

	2002-03	2003-04
Restricted Funds	49,700	51,700

ad. Board of Proprietary Education

	2002-03	2003-04
Restricted Funds	123,000	134,300

ae. Board of Psychology

	2002-03	2003-04
Restricted Funds	169,600	176,100

af. Real Estate Appraisers Board

	2002-03	2003-04
Restricted Funds	614,900	631,900

ag. Real Estate Commission

	2002-03	2003-04
Restricted Funds	2,003,100	2,302,900

Included in the above Restricted Funds appropriation is $966,700 in fiscal year 2002-2003 and $1,224,000 in fiscal year 2003-2004 for Real Estate Education and Recovery.

ah. Board of Respiratory Care

	2002-03	2003-04
Restricted Funds	182,700	188,600

ai. Board of Social Workers

	2002-03	2003-04
Restricted Funds	141,300	145,300

aj. Board of Speech Pathologists and Audiologists

	2002-03	2003-04
Restricted Funds	83,000	86,000

ak. Board of Veterinary Examiners

	2002-03	2003-04

Restricted Funds	228,300	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2002-03	2003-04
Restricted Funds	17,199,600	17,598,300

25. EDUCATION PROFESSIONAL STANDARDS BOARD

	2002-03	2003-04
General Fund	12,433,800	11,097,000
Restricted Funds	1,378,500	829,600
Federal Funds	3,020,300	4,379,200
TOTAL	16,832,600	16,305,800

Notwithstanding KRS 161.134, $800,000 in fiscal year 2002-2003 and $800,000 in fiscal year 2003-2004 is provided for National Board of Teaching Standards Certification from the General Fund.

Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

Included in the above General Fund appropriation is $2,000,000 in fiscal year 2002-2003 for the establishment of the Teacher Education Model Program.

Notwithstanding KRS 45.229, the above General Fund support appropriated for the Teacher Education Model Program shall not lapse in fiscal year 2002-2003, but be carried forward to fiscal year 2003-2004 for the purposes of providing program services in fiscal year 2003-2004.

26. BOARD OF EMERGENCY MEDICAL SERVICES

	2002-03	2003-04
General Fund	2,504,300	2,504,300
Restricted Funds	168,300	171,700
Federal Fund	362,800	100,000
TOTAL	3,035,400	2,776,000

27. GOVERNMENTAL SERVICES CENTER

	2002-03	2003-04
Restricted Funds	1,462,000	1,516,000

28. EXECUTIVE BRANCH ETHICS COMMISSION

	2002-03	2003-04
General Fund	325,900	325,900
Restricted Funds	300	2,400
TOTAL	326,200	328,300

29. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2002-03	2003-04
General Fund	0	0

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2001-2002 or fiscal year 2002-2003 shall not lapse but shall be carried forward into fiscal years 2002-2003 and 2003-2004, respectively.

b. Attorney General Expense

	2002-03	2003-04
General Fund	225,000	225,000

c. Board of Claims Awards

	2002-03	2003-04
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2002-03	2003-04
General Fund	3,200,000	3,400,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2002-03	2003-04
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2002-03	2003-04
General Fund	1,000,000	1,000,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2002-03	2003-04
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	2002-03	2003-04
General Fund	195,000	195,000

i. Frankfort Cemetery

	2002-03	2003-04
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2002-03	2003-04
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2002-03	2003-04
General Fund	200,000	200,000

l. Master Commissioner--Social Security

	2002-03	2003-04
General Fund	313,000	343,000

m. Workers' Compensation

	2002-03	2003-04
General Fund	502,000	532,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2002-03	2003-04
General Fund	60,000	60,000

o. Blanket Employee Bonds

	2002-03	2003-04
General Fund	100,000	100,000

p. Necessary Government Expenses

	2002-03	2003-04
General Fund	5,629,000	0

Included in the above appropriation for fiscal year 2002-2003 is $29,000 authorized for the Commonwealth's Attorneys budget unit, $1,000,000 authorized for the ANOC-Unredeemed Checks budget unit, $3,950,000 authorized for the Military

Affairs budget unit, $50,000 authorized for the Executive Branch Ethics Commission, and $600,000 authorized for the Board of Claims.

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2002-03	2003-04
General Fund	12,736,500	7,367,500

Included in the above appropriations is $0 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

30. KENTUCKY RIVER AUTHORITY

Budget Units

	2002-03	2003-04
General Fund	379,000	379,000
Restricted Funds	3,266,000	3,698,000
TOTAL	3,645,000	4,077,000

TOTAL - GOVERNMENT OPERATIONS

	2002-03	2003-04
General Fund (Tobacco)	52,451,200	43,859,000
General Fund	244,671,000	243,092,300
Restricted Funds	164,126,500	162,265,200
Federal Funds	155,703,600	131,594,000
Road Fund	125,000	125,000
TOTAL	617,077,300	580,935,500

B. CABINET FOR ECONOMIC DEVELOPMENT

31. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Office of the Secretary

	2002-03	2003-04
General Fund	1,392,700	1,380,300
Restricted Funds	4,575,200	4,612,800
TOTAL	5,967,900	5,993,100

Included in the above Restricted Funds appropriation is $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 for the East Kentucky Jobs Creation Corporation and $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation. Also included in the above Restricted Funds appropriation is $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004 for the Regional Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Regional Development Office shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center.

Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2002-2003 and $420,800 in fiscal year 2003-2004 for the Louisville Waterfront Development Corporation.

Included in the above Restricted Funds appropriation is $2,144,900 in fiscal year 2002-2003 and $2,169,400 in fiscal year 2003-2004 for the Office of the Commissioner for the New Economy, including up to $1,300,000 in each year for Innovation and Commercialization Centers. Notwithstanding KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, and 164.6037, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the appropriations, as necessary but not to exceed $1,969,400 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 from the Council on Postsecondary Education, Science and Technology Funding Program, shall be transferred to the Office of the Commissioner for the New Economy. The

Office of State Budget Director shall certify the transfer.

b. Administration and Program Support

	2002-03	2003-04
General Fund	2,179,900	2,111,100
Restricted Funds	29,800	45,900
TOTAL	2,209,700	2,157,000

c. Business Development

	2002-03	2003-04
General Fund	2,517,900	2,475,500
Restricted Funds	248,800	290,600
TOTAL	2,766,700	2,766,100

d. Financial Incentives

	2002-03	2003-04
General Fund	3,343,800	5,051,800
Restricted Funds	2,182,700	2,227,300
TOTAL	5,526,500	7,279,100

Included in the above General Fund appropriation is $1,826,000 in fiscal year 2003-2004 for debt service for new bonds.

Notwithstanding KRS 45.229, the General Fund appropriation for fiscal year 2001-2002 and for fiscal year 2002-2003 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 154.12-278 by which the Kentucky Economic Development Finance Authority (KEDFA) authorized a grant of up to $1,300,000 in fiscal year 2001-2002 to the Kentucky Science and Technology Corporation, a maximum of $900,000 of the authorized amount shall be conveyed for expenditure. The remaining funding shall be retained and shall be appropriated to the Office of the Commissioner for the New Economy to be used to fund Innovation and Commercialization grants.

Moneys available to the Kentucky Economic Development Finance Authority (KEDFA) under KRS 154.20-010 to 154.20-180 shall be used exclusively for the purposes of those statutes or as expressly provided for in this Act.

e. Community Development

	2002-03	2003-04
General Fund	2,855,900	2,879,100
Restricted Funds	440,100	454,000
Federal Funds	157,100	155,400
TOTAL	3,453,100	3,488,500

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2002-03	2003-04
General Fund	12,290,200	13,897,800
Restricted Funds	7,476,600	7,630,600
Federal Funds	157,100	155,400
TOTAL	19,923,900	21,683,800

C. EDUCATION

32. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2002-03	2003-04
General Fund	2,280,892,100	2,349,962,100

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky Program.

The above appropriations include $1,800,114,900 in fiscal year 2002-2003 and $1,863,965,500 in fiscal year 2003-2004 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for base SEEK is $202,216,300 in fiscal year 2002-2003 and $212,106,200 in fiscal year 2003-2004 for pupil transportation.

Included in the above appropriation is $136,184,400 in fiscal year 2002-2003 and $135,083,500 in fiscal year 2003-2004 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,416,900 in fiscal year 2002-2003 and $2,416,900 in fiscal year 2003-2004 for vocational transportation.

Included in the above appropriation is $21,452,600 in fiscal year 2002-2003 and $21,452,600 in fiscal year 2003-2004 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $58,759,400 in fiscal year 2002-2003 and $56,253,600 in fiscal year 2003-2004 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620.

Included in the above appropriation is $261,363,900 in fiscal year 2002-2003 and $270,190,000 in fiscal year 2003-2004 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

Notwithstanding KRS 157.395, included in the above appropriation is $600,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards.

b. Executive Policy and Management

	2002-03	2003-04
General Fund	1,196,800	1,184,900

c. Operations and Support Services

	2002-03	2003-04
General Fund	11,341,800	11,425,700
Restricted Funds	2,187,900	2,264,400
Federal Funds	562,500	573,800
TOTAL	14,092,200	14,263,900

Included in the above General Fund appropriation is $2,503,800 in fiscal year 2002-2003 and $2,553,900 in fiscal year 2003-2004 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

Included in the above General Fund appropriation in fiscal year 2003-2004 is $143,000 to provide for debt service for Bond Funds totaling $1,517,000 for capital projects relating to the Kentucky School for Deaf and the Kentucky School for the Blind as provided in Part II, Capital Projects Budget, in this Act.

d. Learning and Results Services

	2002-03	2003-04
General Fund	569,527,500	589,477,700
Restricted Funds	5,850,700	5,851,200
Federal Funds	491,060,800	497,995,000
TOTAL	1,066,439,000	1,093,323,900

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2002-2003 and $20,000,000 in fiscal year 2003-2004 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in fiscal year 2002-2003 and $10,800,000 in fiscal year 2003-2004 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

Included in the above General Fund appropriation is $100,000 in fiscal year 2003-2004 to provide funds for buildings and grounds for local school district number 155.

Included in the above General Fund appropriation is $277,397,000 in fiscal year 2002-2003 and $309,119,400 in fiscal year 2003-2004 to provide health insurance and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $4,060,000 in fiscal year 2002-2003 and $10,049,500 in fiscal year

2003-2004 for the school rewards escrow account.

Included in the above General Fund appropriation is $5,421,100 in fiscal year 2002-2003 and $5,659,500 in fiscal year 2003-2004 for the Kentucky School for the Blind, and $9,139,800 in fiscal year 2002-2003 and $9,559,300 in fiscal year 2003-2004 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $1,750,000 in fiscal year 2002-2003 and $1,750,000 in fiscal year 2003-2004 for the Community Education Program; $1,750,000 is established as the base level budget for the Community Education Program within the Kentucky Department of Education. Included in the $1,750,000 appropriation in fiscal year 2002-2003 is $1,700,000 for community education grants to support community education director salaries and $50,000 to support community education director training and the state advisory council. Included in the $1,750,000 appropriation in fiscal year 2003-2004 is $1,700,000 for community education grants to support community education director salaries and $50,000 to support community education director training and the state advisory council.

TOTAL - EDUCATION

	2002-03	2003-04
General Fund	2,862,958,200	2,952,050,400
Restricted Funds	8,038,600	8,115,600
Federal Funds	491,623,300	498,568,800
TOTAL	3,362,620,100	3,458,734,800

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

33. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	3,351,300	3,351,300
Restricted Funds	448,900	236,700
TOTAL	3,800,200	3,588,000

Included in the above General Fund appropriation is $1,470,900 in each fiscal year for the Governor's Scholars Program.

Included in the above General Fund appropriation is $405,000 in fiscal year 2002-2003 and $405,000 in fiscal year 2003-2004 for the Governor's School for the Arts.

Included in the above Restricted Funds appropriation is $400,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

Up to $30,000 in General Fund support each year is available to be transferred to the Environmental Education Council for additional support.

34. KENTUCKY ARTS COUNCIL

	2002-03	2003-04
General Fund	4,523,800	4,523,800
Restricted Funds	782,800	612,500
Federal Funds	692,800	621,100
TOTAL	5,999,400	5,757,400

35. TEACHERS' RETIREMENT SYSTEM

	2002-03	2003-04
General Fund	90,113,200	97,489,000
Restricted Funds	7,330,100	7,571,900
TOTAL	97,443,300	105,060,900

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2002-2003 or fiscal year 2003-2004 for the cost of administration.

Included in the above General Fund appropriation is $3,668,400 in fiscal year 2002-2003 and $7,636,700 in fiscal year 2003-2004 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2002-

2004 biennium.

Included in the above General Fund appropriation is $694,800 in fiscal year 2002-2003 and $1,451,800 in fiscal year 2003-2004 to increase minimum value payments for members qualifying under provisions of KRS 161.620(3).

Included in the above General Fund appropriation is $1,179,900 in fiscal year 2003-2004 to make up for an underappropriation during fiscal year 2000-2001 under the provisions of KRS 161.550.

Included in the above General Fund appropriation is $4,406,000 in fiscal year 2002-2003 and $9,213,400 in fiscal year 2003-2004 to provide, when combined with the annual one and one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and nine-tenths percent in fiscal year 2002-2003 and an additional three percent in fiscal year 2003-2004.

Given enactment of 2002 Ky. Acts ch. 275, the amount of $1,652,000 from the above General Fund appropriation shall lapse to the credit of the General Fund at the end of fiscal year 2002-2003.

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2002-03	2003-04
General Fund	75,821,400	82,615,500

Included in the above General Fund appropriation is $76,853,100 in fiscal year 2002-2003 and $77,476,500 in fiscal year 2003-2004 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $2,092,500 in fiscal year 2003-2004 for first year debt service for bonds authorized by the 2000 Regular Session of the General Assembly.

Included in the above General Fund appropriation is $96,200 in fiscal year 2003-2004 for debt service for $4,600,000 in new bonding authority to be provided to public school district 165 in fiscal year 2002-2003.

Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2002-2004 biennium in anticipation of debt service availability during the 2004-2006 biennium. Included in the above General Fund appropriation is $2,700,000 in fiscal year 2003-2004 for debt service on $32,265,000 of these bonds. No additional bonded indebtedness based on the above amount is to be incurred during the 2002-2004 biennium.

37. DEAF AND HARD OF HEARING

	2002-03	2003-04
General Fund	885,500	885,500
Restricted Funds	281,500	260,000
TOTAL	1,167,000	1,145,500

38. KENTUCKY HERITAGE COUNCIL

	2002-03	2003-04
General Fund	921,100	921,100
Restricted Funds	785,700	227,500
Federal Funds	766,100	766,100
TOTAL	2,472,900	1,914,700

39. KENTUCKY EDUCATIONAL TELEVISION

	2002-03	2003-04
General Fund	14,548,100	14,548,100
Restricted Funds	1,106,400	1,075,700
Federal Funds	700,000	700,000
TOTAL	16,354,500	16,323,800

40. KENTUCKY HISTORICAL SOCIETY

	2002-03	2003-04
General Fund	5,985,200	5,985,200
Restricted Funds	627,200	571,400
Federal Funds	486,800	381,600
TOTAL	7,099,200	6,938,200

41. LIBRARIES AND ARCHIVES

a. General Operations

	2002-03	2003-04
General Fund	7,257,400	7,257,400
Restricted Funds	1,795,200	1,830,800
Federal Funds	1,807,600	1,836,800
TOTAL	10,860,200	10,925,000

b. Direct Local Aid

	2002-03	2003-04
General Fund	5,811,600	5,811,600
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
TOTAL	6,244,600	6,244,600

Notwithstanding KRS 171.201, included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of $0.73.

TOTAL - LIBRARIES AND ARCHIVES

	2002-03	2003-04
General Fund	13,069,000	13,069,000
Restricted Funds	1,804,200	1,839,800
Federal Funds	2,231,600	2,260,800
TOTAL	17,104,800	17,169,600

42. KENTUCKY CENTER FOR THE ARTS

	2002-03	2003-04
General Fund	603,700	603,700

43. ENVIRONMENTAL EDUCATION COUNCIL

	2002-03	2003-04
Restricted Funds	167,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2002-03	2003-04
General Fund	209,822,300	223,992,200
Restricted Funds	13,333,800	12,545,500
Federal Funds	4,877,300	4,729,600
TOTAL	228,033,400	241,267,300

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

44. COMMUNITY BASED SERVICES

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	280,666,700	279,364,400
Restricted Funds	104,134,700	133,339,600
Federal Funds	489,678,800	476,832,800
TOTAL	881,743,000	893,118,100

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

45. ADMINISTRATION SERVICES

	2002-03	2003-04
General Fund	27,660,400	29,162,700
Restricted Funds	4,390,100	4,501,800
Federal Funds	37,311,900	38,458,800
TOTAL	69,362,400	72,123,300

46. DISABILITY DETERMINATIONS

	2002-03	2003-04
Restricted Funds	62,700	65,800
Federal Funds	40,129,800	42,376,900
TOTAL	40,192,500	42,442,700

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	308,327,100	308,527,100
Restricted Funds	108,587,500	137,907,200
Federal Funds	567,120,500	557,668,500
TOTAL	991,297,900	1,007,684,100

F. FINANCE AND ADMINISTRATION CABINET

47. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2002-03	2003-04
General Fund	5,832,300	5,832,300
Restricted Funds	2,737,000	2,870,000
TOTAL	8,569,300	8,702,300

Included in the above General Fund appropriation is $200,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

Included in the above General Fund appropriation is $220,000 in fiscal year 2003-2004 for Gubernatorial transition costs.

b. Office of the Controller

	2002-03	2003-04
General Fund	5,939,400	5,939,400
Restricted Funds	396,000	414,000
Federal Funds	4,000,000	4,000,000
TOTAL	10,335,400	10,353,400

c. Debt Service

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	245,498,000	248,752,000
Road Fund	3,668,000	3,664,000
TOTAL	255,278,000	258,532,000

Included in the above General Fund appropriation is $980,000 in fiscal year 2003-2004 for debt service for Coal Severance Tax Projects funded with Bond Funds.

d. Administration

	2002-03	2003-04
General Fund	3,542,400	3,513,000
Restricted Funds	9,180,800	9,567,000
Road Fund	283,000	283,000
TOTAL	13,006,200	13,363,000

e. Facilities Management

	2002-03	2003-04
General Fund	7,875,800	7,875,800
Restricted Funds	25,116,000	25,821,000
TOTAL	32,991,800	33,696,800

f. County Costs

	2002-03	2003-04
General Fund	22,631,000	19,211,100
Restricted Funds	1,425,000	1,425,000
TOTAL	24,056,000	20,636,100

Notwithstanding KRS 24A.190 to 24A.193, included in the above General Fund appropriation is $5,431,000 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	2002-03	2003-04
Restricted Funds	85,145,600	80,760,800

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	291,318,900	291,123,600
Restricted Funds	124,000,400	120,857,800
Federal Funds	4,000,000	4,000,000
Road Fund	3,951,000	3,947,000
TOTAL	429,382,300	426,044,400

G. CABINET FOR HEALTH SERVICES

Budget Units

48. MEDICAID SERVICES

a. Administration

	2002-03	2003-04
General Fund	17,848,000	18,028,200
Restricted Funds	20,624,400	20,806,000
Federal Funds	44,009,800	44,741,900
TOTAL	82,482,200	83,576,100

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(1) Establish a new program;

(2) Expand the services of an existing program; or

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

b. Benefits

	2002-03	2003-04
General Fund	752,373,700	757,093,500
Restricted Funds	200,011,300	192,249,400
Federal Funds	2,245,464,700	2,237,396,900
TOTAL	3,197,849,700	3,186,739,800

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Included in the above appropriation is $1,200,000 in General Fund support and $4,800,000 Federal Funds in each fiscal year to support the Breast and Cervical Cancer Treatment Program.

Included in the above appropriation is $1,970,300 in General Fund support and $4,575,500 in Federal Funds in fiscal year

2002-2003 and $6,690,100 in General Fund support, $3,800,800 in Restricted Funds, and $24,351,100 in Federal Funds to support 250 additional slots in fiscal year 2002-2003 and 500 additional slots in fiscal year 2003-2004 for the Supports for Community Living Program.

Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal year 2002-2003 shall not lapse, but shall be carried forward into the next fiscal year.

49. PUBLIC HEALTH

	2002-03	2003-04
General Fund (Tobacco)	21,738,800	20,882,800
General Fund	55,693,300	56,343,700
Restricted Funds	65,849,000	65,914,100
Federal Funds	141,120,500	127,620,500
TOTAL	284,401,600	270,761,100

Included in the above appropriation is $50,000 in General Fund support in each fiscal year to support hospital-based hospice services in Louisville, Kentucky.

Included in the above fiscal year 2003-2004 General Fund appropriation is $262,000 in debt service for new bonds.

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

50. MENTAL HEALTH/MENTAL RETARDATION

	2002-03	2003-04
General Fund (Tobacco)	1,000,000	1,000,000
General Fund	168,530,000	172,409,900
Restricted Funds	190,820,600	206,415,200
Federal Funds	41,724,800	41,355,900
TOTAL	402,075,400	421,181,000

Included in the above General Fund appropriation is $275,000 in fiscal year 2002-2003 and $275,000 in fiscal year 2003-2004 to implement a training program relating to mental health consultation and education to jails, as identified in Part IX, Special Provisions, of this Act (Part IX, Special Provisions, 25. Department for Mental Health/Mental Retardation, e. Mental Health Consultation and Education to Jails). No funds shall be disbursed by the Cabinet for Health Services until all plans for training programs have been approved by the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

Also included in the above General Fund appropriation is $523,000 in fiscal year 2003-2004 for debt service to support new bonds.

51. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2002-03	2003-04
General Fund (Tobacco)	1,600,000	1,600,000
General Fund	16,709,500	16,709,500
Restricted Funds	22,089,000	23,262,900
Federal Funds	10,053,700	9,822,800
TOTAL	50,452,200	51,395,200

52. CERTIFICATE OF NEED

	2002-03	2003-04
General Fund	131,500	134,100
Restricted Funds	234,200	251,100
TOTAL	365,700	385,200

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

53. AGING SERVICES

	2002-03	2003-04
General Fund	26,421,800	26,821,800
Restricted Funds	760,400	761,600
Federal Funds	18,885,300	18,885,300

TOTAL	46,067,500	46,468,700

54. ADMINISTRATIVE SUPPORT

	2002-03	2003-04
General Fund	9,866,000	9,875,000
Restricted Funds	8,154,000	8,806,700
Federal Funds	12,729,200	13,254,500
TOTAL	30,749,200	31,936,200

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

TOTAL - CABINET FOR HEALTH SERVICES

	2002-03	2003-04
General Fund (Tobacco)	24,338,800	23,482,800
General Fund	1,047,573,800	1,057,415,700
Restricted Funds	508,542,900	518,467,000
Federal Funds	2,513,988,000	2,493,077,800
TOTAL	4,094,443,500	4,092,443,300

H. JUSTICE CABINET

55. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2002-03	2003-04
General Fund	8,017,000	7,826,000
Restricted Funds	1,908,100	2,164,200
Federal Funds	13,433,500	13,384,700
TOTAL	23,358,600	23,374,900

Included in the above General Fund appropriation is $1,316,000 in fiscal year 2002-2003 and $1,350,000 in fiscal year 2003-2004 to provide free civil legal services for indigents.

Included in the above General Fund appropriation is $1,096,700 in fiscal year 2002-2003 and $1,152,200 in fiscal year 2003-2004 for the operation of the State Parole Board.

Included in the above General Fund appropriation is $70,000 in fiscal year 2002-2003 for a grant to continue the Urban League of Lexington-Fayette County Construction Training Program.

Included within the above Restricted Funds appropriation is $375,600 in fiscal year 2002-2003 and $363,700 in fiscal year 2003-2004 to support the Criminal Justice Council. Notwithstanding KRS 15.440, 15.460, and 15.470, these Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

b. State Police

	2002-03	2003-04
General Fund	78,074,900	80,574,900
Restricted Funds	7,870,800	7,621,200
Federal Funds	9,772,600	10,261,300
Road Fund	35,000,000	35,000,000
TOTAL	130,718,300	133,457,400

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2002-03	2003-04
Restricted Funds	39,077,100	37,941,400
Federal Funds	2,700,000	2,700,000
TOTAL	41,777,100	40,641,400

Included in the above Restricted Funds appropriation is $22,167,300 in fiscal year 2002-2003 and $22,915,000 in fiscal year 2003-2004 for training incentive payments in accordance with KRS 15.430 and 15.440.

Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004 for training incentive payments for each participant.

d. Juvenile Justice

	2002-03	2003-04
General Fund	82,611,600	83,790,100
Restricted Funds	14,015,000	15,691,600
Federal Funds	17,300,000	17,250,000
TOTAL	113,926,600	116,731,700

Included in the above General Fund appropriation is $4,940,000 in fiscal year 2002-2003 and $4,394,700 in fiscal year 2003-2004 to support detention subsidies to counties of $94 per day per juvenile and to support the provisions included in Part IX, Special Provisions, Juvenile Justice.

Included in the above General Fund appropriation is $350,000 in fiscal year 2002-2003 and $350,000 in fiscal year 2003-2004 for the operation of the Gateway Juvenile Diversion Center.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the operation of the Mary Kendall Homes.

TOTAL - JUSTICE OPERATIONS

	2002-03	2003-04
General Fund	168,703,500	172,191,000
Restricted Funds	62,871,000	63,418,400
Road Fund	35,000,000	35,000,000
Federal Funds	43,206,100	43,596,000
TOTAL	309,780,600	314,205,400

56. CORRECTIONS

Budget Units

a. Corrections Management

	2002-03	2003-04
General Fund	15,222,900	16,331,800
Restricted Funds	15,799,700	15,583,900
Federal Funds	1,743,100	800,000
TOTAL	32,765,700	32,715,700

Included in the above General Fund appropriation is $508,000 in fiscal year 2003-2004 to provide for debt service payments to support new bonds.

b. Community Services and Local Facilities

	2002-03	2003-04
General Fund	64,874,000	82,600,400
Restricted Funds	15,623,400	629,900
Federal Funds	51,000	0
TOTAL	80,548,400	83,230,300

Notwithstanding KRS 441.605 to 441.695 for fiscal year 2002-2003, funds in the amount of $15,000,000 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

In accordance with KRS 196.076(1) to (8), funding is provided for the Probation and Parole Salary Improvement Program.

Included in the above General Fund appropriation is $44,012,900 in fiscal year 2002-2003 and $46,354,800 in fiscal year 2003-2004 to support payments to county jails for state inmates.

c. Adult Correctional Institutions

	2002-03	2003-04
General Fund	187,290,800	196,383,900
Restricted Funds	6,526,100	6,588,500
Federal Funds	328,700	215,200

TOTAL	194,145,600	203,187,600

d. Local Jail Support

	2002-03	2003-04
General Fund	15,276,100	15,276,100

Included in the General Fund appropriation is $931,100 in fiscal year 2002-2003 and $931,100 in fiscal year 2003-2004 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $400,000 in fiscal year 2002-2003 and $400,000 in fiscal year 2003-2004 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2002-03	2003-04
General Fund	282,663,800	310,592,200
Restricted Funds	37,949,200	22,802,300
Federal Funds	2,122,800	1,015,200
TOTAL	322,735,800	334,409,700

TOTAL - JUSTICE CABINET

	2002-03	2003-04
General Fund	451,367,300	482,783,200
Restricted Funds	100,820,200	86,220,700
Federal Funds	45,328,900	44,611,200
Road Fund	35,000,000	35,000,000
TOTAL	632,516,400	648,615,100

I. LABOR

LABOR CABINET

57. Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	349,900	367,700
Restricted Funds	5,652,600	5,897,300
TOTAL	6,002,500	6,265,000

Funds lapsed in Part V include no employer benefit premiums or liability payments and are Restricted Funds used for General Administration and Support operations.

b. Workplace Standards

	2002-03	2003-04
General Fund	2,085,400	2,067,600
Restricted Funds	124,275,500	124,691,000
Federal Funds	3,280,500	3,280,500
TOTAL	129,641,400	130,039,100

c. Workers' Claims

	2002-03	2003-04
Restricted Funds	16,397,700	17,093,300

d. Kentucky Occupational Safety and Health Review Commission

	2002-03	2003-04
Restricted Funds	476,800	479,300

TOTAL - LABOR CABINET

	2002-03	2003-04
General Fund	2,435,300	2,435,300

Restricted Funds	146,802,600	148,160,900
Federal Funds	3,280,500	3,280,500
TOTAL	152,518,400	153,876,700

Budget Unit

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2002-03	2003-04
Restricted Funds	151,812,000	153,419,000

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to the Department of Mines and Minerals.

Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 342.122(1)(b), the workers' compensation assessment rate shall remain at 11.5 percent for the biennium.

Funds lapsed in Part V include no employer benefit premiums or liability payments and are the recapture of fiscal year 2001-2002 General Fund transfers to the Benefit Reserve Fund.

TOTAL - LABOR

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	298,614,600	301,579,900
Federal Funds	3,280,500	3,280,500
TOTAL	304,395,400	307,360,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

59. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	9,445,900	9,445,900
Restricted Funds	331,900	277,300
Federal Funds	1,585,200	1,596,300
TOTAL	11,363,000	11,319,500

b. Environmental Protection

	2002-03	2003-04
General Fund	22,886,100	22,790,100
Restricted Funds	27,442,300	34,481,700
Federal Funds	19,457,000	19,661,900
TOTAL	69,785,400	76,933,700

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above Restricted Funds appropriation is $7,400,000 in fiscal year 2002-2003 and $12,132,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

c. Natural Resources

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	12,930,400	12,930,400
Restricted Funds	4,583,700	3,809,900
Federal Funds	6,283,300	4,914,700
TOTAL	32,797,400	30,655,000

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2002-03	2003-04
General Fund	10,051,400	10,051,400
Restricted Funds	6,157,800	6,484,100
Federal Funds	17,243,300	17,390,000
TOTAL	33,452,500	33,925,500

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2002-03	2003-04
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	55,313,800	55,217,800
Restricted Funds	38,515,700	45,053,000
Federal Funds	66,568,800	65,562,900
TOTAL	169,398,300	174,833,700

60. ENVIRONMENTAL QUALITY COMMISSION

	2002-03	2003-04
General Fund	253,700	253,700
Restricted Funds	2,000	0
TOTAL	255,700	253,700

61. KENTUCKY NATURE PRESERVES COMMISSION

	2002-03	2003-04
General Fund	980,900	1,053,100
Restricted Funds	314,700	298,700
Federal Funds	25,000	25,000
TOTAL	1,320,600	1,376,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	56,548,400	56,524,600
Restricted Funds	38,832,400	45,351,700
Federal Funds	66,593,800	65,587,900
TOTAL	170,974,600	176,464,200

K. PERSONNEL CABINET

62. PERSONNEL CABINET

Budget Units

a. General Operations

	2002-03	2003-04
General Fund	1,507,400	3,257,400
Restricted Funds	13,222,000	14,223,200

TOTAL	14,729,400	17,480,600

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

b. Public Employees Deferred Compensation Authority

	2002-03	2003-04
Restricted Funds	5,183,300	5,622,100

c. Workers' Compensation Benefits and Reserve

	2002-03	2003-04
Restricted Funds	17,269,200	18,138,200

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

d. State Salary Compensation Fund

	2002-03	2003-04
General Fund	0	11,490,000

The above General Fund appropriation in fiscal year 2003-2004 is provided to fund a cost-of-living adjustment for state employees as provided in Part IV of this Act.

TOTAL - PERSONNEL CABINET

	2002-03	2003-04
General Fund	1,507,400	14,747,400
Restricted Funds	35,674,500	37,983,500
TOTAL	37,181,900	52,730,900

L. POSTSECONDARY EDUCATION

Budget Units

63. COUNCIL ON POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,280,000	5,455,000
General Fund	101,327,400	135,959,400
Restricted Funds	14,536,800	4,707,700
Federal Funds	4,260,000	3,161,200
TOTAL	126,404,200	149,283,300

Included in the above General Fund appropriation is $82,270,900 in fiscal year 2002-2003 and $112,915,700 in fiscal year 2003-2004 for the Strategic Investment and Incentive Funding Program. The following trust funds and funding programs make up the Strategic Investment and Incentive Funding Program for fiscal year 2002-2003 and for fiscal year 2003-2004. Included in the above General Fund appropriation is $9,871,000 in fiscal year 2003-2004 for the Research Challenge Trust Fund. Included in the above General Fund appropriation is $1,975,000 in fiscal year 2003-2004 for the Regional University Excellence Trust Fund. Included in the above General Fund appropriation is $1,300,000 in fiscal year 2002-2003 and $1,300,000 in fiscal year 2003-2004 for the Technology Initiative Trust Fund. Included in the above General Fund appropriation is $62,431,300 in fiscal year 2002-2003 and $79,230,100 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund. Included in the above Restricted Funds appropriation is $750,000 in fiscal year 2002-2003 for the Student Financial Aid and Advancement Trust Fund. Included in the above General Fund appropriation is $11,768,000 in fiscal year 2002-2003 and $11,768,000 in fiscal year 2003-2004 for the Adult Education and Literacy Funding Program. Included in the above General Fund appropriation is $6,771,600 in fiscal year 2002-2003 and $8,771,600 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above Restricted Funds appropriation is $4,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 for the Science and Technology Funding Program.

Included in the above General Fund appropriation for the Research Challenge Trust Fund is $9,871,000 in fiscal year 2003-2004 for debt service to support the Research Challenge Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Included in the above General Fund appropriation for the Regional University Excellence Trust Fund is $1,975,000 in fiscal year 2003-2004 for debt service to support the Regional University Excellence Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Science and Technology Funding Program shall not lapse.

64. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2002-03	2003-04
General Fund (Tobacco)	557,000	750,000
General Fund	45,860,000	66,828,300
Restricted Funds	86,802,500	97,352,600
Federal Funds	868,700	890,000
TOTAL	134,088,200	165,820,900

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $28,885,800 for the College Access Program in fiscal year 2002-2003 and $42,504,400 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $12,288,400 for the Kentucky Tuition Grant Program in fiscal year 2002-2003 and $18,216,200 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation for the Teacher Scholarship Program is $976,600 in fiscal year 2002-2003 and $2,279,400 in fiscal year 2003-2004.

Included in the above Restricted Funds appropriation is $742,800 in fiscal year 2002-2003 and $765,100 in fiscal year 2003-2004 for the administration of the Kentucky Educational Excellence Scholarship Program.

65. EASTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	71,668,300	71,668,300
Restricted Funds	83,158,600	87,603,100
Federal Funds	44,454,400	46,665,700
TOTAL	199,281,300	205,937,100

Included in the above General Fund appropriation is $3,700,400 in fiscal year 2002-2003 and $3,712,100 in fiscal year 2003-2004 for debt service for previously issued bonds.

66. KENTUCKY STATE UNIVERSITY

	2002-03	2003-04
General Fund	22,412,400	22,412,400
Restricted Funds	16,446,900	17,699,000
Federal Funds	11,500,400	11,730,400
TOTAL	50,359,700	51,841,800

Included in the above General Fund appropriation is $2,247,600 in fiscal year 2002-2003 and $2,252,000 in fiscal year 2003-2004 for debt service for previously issued bonds.

67. MOREHEAD STATE UNIVERSITY

	2002-03	2003-04
General Fund	41,729,800	41,729,800
Restricted Funds	46,293,500	47,104,600
Federal Funds	46,570,500	51,207,100
TOTAL	134,593,800	140,041,500

Included in the above General Fund appropriation is $1,543,700 in fiscal year 2002-2003 and $1,452.600 in fiscal year 2003-2004 for debt service for previously issued bonds.

68. MURRAY STATE UNIVERSITY

	2002-03	2003-04
General Fund	50,388,100	50,388,100
Restricted Funds	68,752,700	72,256,200
Federal Funds	10,646,700	10,906,800
TOTAL	129,787,500	133,551,100

Included in the above General Fund appropriation is $1,880,700 in fiscal year 2002-2003 and $1,884,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

69. NORTHERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	45,257,600	45,257,600
Restricted Funds	66,180,400	69,535,800
Federal Funds	7,422,000	7,669,100
TOTAL	118,860,000	122,462,500

Included in the above General Fund appropriation is $5,019,600 in fiscal year 2002-2003 and $5,033,300 in fiscal year 2003-2004 for debt service for previously issued bonds.

70. UNIVERSITY OF KENTUCKY

	2002-03	2003-04
General Fund	304,755,700	305,031,200
Restricted Funds	858,999,900	873,254,500
Federal Funds	126,193,600	128,053,100
TOTAL	1,289,949,200	1,306,338,800

Included in the above General Fund appropriation is $6,461,300 in fiscal year 2002-2003 and $5,848,900 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $9,081,500 in fiscal year 2002-2003 and $9,081,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College, of which $988,100 in fiscal year 2002-2003 and $732,700 in fiscal year 2003-2004 is for debt service for previously issued bonds.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 to support medical residency positions at Morehead and Corbin.

Included in the above General Fund appropriation is $275,500 in fiscal year 2003-2004 to support a domestic violence program.

Included in the above Restricted Funds appropriation is $14,424,900 in fiscal year 2002-2003 and $15,388,100 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $5,923,500 in fiscal year 2002-2003 and $5,923,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College. Included in the above General Fund appropriation is $103,000 in fiscal year 2002-2003 and $103,000 in fiscal year 2003-2004 for the Ovarian Cancer Screening Program. Also, notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) moneys in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky as specified in Part IX, Special Provisions, of this Act.

71. UNIVERSITY OF LOUISVILLE

	2002-03	2003-04
General Fund	172,352,500	172,352,500
Restricted Funds	293,702,300	302,317,400
Federal Funds	49,334,100	50,789,900
TOTAL	515,388,900	525,459,800

Included in the above General Fund appropriation is $11,330,000 in fiscal year 2002-2003 and $9,504,900 in fiscal year 2003-2004 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $17,052,900 in fiscal year 2002-2003 and $17,500,300 in fiscal year 2003-2004 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Included in the above Restricted Funds appropriation is $50,000 in fiscal year 2002-2003 for the Quality and Charity Trust Agreement.

Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2001-2002 shall not lapse. Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Care Trust Agreement in fiscal year 2002-2003 shall continue into fiscal year 2003-2004 for this purpose. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2003-2004.

72. WESTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	69,025,000	69,025,000
Restricted Funds	81,837,400	85,598,400
Federal Funds	30,444,000	32,444,000

TOTAL	181,306,400	187,067,400

Included in the above General Fund appropriation is $3,295,900 in fiscal year 2002-2003 and $3,114,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

73. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2002-03	2003-04
General Fund	185,313,100	185,313,100
Restricted Funds	177,568,900	185,450,000
Federal Funds	68,053,500	71,735,500
TOTAL	430,935,500	442,498,600

Included in the above General Fund appropriation is $10,726,000 in fiscal year 2002-2003 and $10,765,800 in fiscal year 2003-2004 for debt service for previously issued bonds.

Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Fund shall be $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004.

Notwithstanding KRS 95A.262(3), $500,000 is provided each fiscal year of the 2002-2004 biennium for the firefighters training center fund.

TOTAL - POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,837,000	6,205,000
General Fund	1,110,089,900	1,165,965,700
Restricted Funds	1,794,279,900	1,842,879,300
Federal Funds	399,747,900	415,252,800
TOTAL	3,310,954,700	3,430,302,800

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

74. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2002-03	2003-04
General Fund	635,000	857,300
Restricted Funds	2,539,000	2,936,900
Federal Funds	546,900	557,800
TOTAL	3,720,900	4,352,000

75. ALCOHOLIC BEVERAGE CONTROL

	2002-03	2003-04
General Fund	250,000	1,663,000
Restricted Funds	5,887,600	4,545,200
TOTAL	6,137,600	6,208,200

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.337.

76. FINANCIAL INSTITUTIONS

	2002-03	2003-04
Restricted Funds	8,993,100	9,329,700

77. KENTUCKY RACING COMMISSION

	2002-03	2003-04
General Fund	509,200	0
Restricted Funds	15,002,600	14,187,300
TOTAL	15,511,800	14,187,300

78. HOUSING, BUILDINGS AND CONSTRUCTION

	2002-03	2003-04
General Fund	1,718,300	2,318,300
Restricted Funds	12,826,500	12,287,600

TOTAL	14,544,800	14,605,900

79. INSURANCE

General Operations

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
Restricted Funds	22,851,900	24,162,100
TOTAL	42,257,100	41,018,000

80. MINES AND MINERALS

	2002-03	2003-04
General Fund	9,365,000	9,365,000
Restricted Funds	2,261,100	2,043,200
Federal Funds	599,300	598,500
TOTAL	12,225,400	12,006,700

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to Mines and Minerals.

81. PUBLIC ADVOCACY

	2002-03	2003-04
General Fund	23,925,300	25,389,800
Restricted Funds	3,025,900	3,077,900
Federal Funds	1,569,300	1,384,500
TOTAL	28,520,500	29,852,200

82. PUBLIC SERVICE COMMISSION

	2002-03	2003-04
General Fund	11,243,500	11,243,500
Restricted Funds	2,524,000	24,000
Federal Funds	259,800	272,200
TOTAL	14,027,300	11,539,700

Included in the above General Fund appropriation is $589,000 in fiscal year 2002-2003 and $589,000 in fiscal year 2003-2004 for debt service on bonds for the new office building authorized by the 1996 General Assembly.

83. SECRETARY

a. General Operations

	2002-03	2003-04
General Fund	261,200	261,200
Restricted Funds	2,036,900	2,095,700
TOTAL	2,298,100	2,356,900

b. Petroleum Storage Tank Environmental Assurance Fund

	2002-03	2003-04
Restricted Funds	32,103,700	29,660,600

TOTAL - SECRETARY

	2002-03	2003-04
General Fund	261,200	261,200
Restricted Funds	34,140,600	31,756,300
TOTAL	34,401,800	32,017,500

84. BOARD OF TAX APPEALS

	2002-03	2003-04
General Fund	478,100	498,600

85. CHARITABLE GAMING

	2002-03	2003-04
Restricted Funds	3,460,800	3,603,800

Notwithstanding KRS 238.570, the gross receipts fee for fiscal year 2002-2003 and fiscal year 2003-2004 shall be fifty-three one-hundredths of one percent.

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
General Fund	48,385,600	51,596,700
Restricted Funds	113,513,100	107,954,000
Federal Funds	2,975,300	2,813,000
TOTAL	184,279,200	179,219,600

N. REVENUE

Budget Units

86. REVENUE CABINET

	2002-03	2003-04
General Fund	66,087,800	65,032,000
Restricted Funds	4,519,000	4,149,200
Road Fund	1,418,000	1,418,000
TOTAL	72,024,800	70,599,200

Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2002-2004 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, 42.190, 95A.220, and 95A.262 in fiscal year 2002-2003 and fiscal year 2003-2004. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2002-2003 and 2003-2004 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account, except that the first $100,000 shall be deposited exclusively to the General Fund. The Revenue Cabinet may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

87. PROPERTY VALUATION ADMINISTRATORS

	2002-03	2003-04
General Fund	27,431,800	28,222,300
Restricted Funds	3,894,100	4,464,100
TOTAL	31,325,900	32,686,400

Notwithstanding KRS 132.590(3)(c) and (4) and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - REVENUE CABINET

	2002-03	2003-04
General Fund	93,519,600	93,254,300
Restricted Funds	8,413,100	8,613,300
Road Fund	1,418,000	1,418,000
TOTAL	103,350,700	103,285,600

O. TOURISM DEVELOPMENT CABINET

Budget Units

88. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	4,173,800	4,173,800
Restricted Funds	119,000	1,200,000
TOTAL	4,292,800	5,373,800

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for the purpose of supporting expenditures relating to agencies and programs within the Tourism Development Cabinet. Included in the above General Fund appropriation of $2,500,000 in fiscal year 2003-02004 is $1,400,000 for additional debt service to support tourism development project SPBC #66 (Account #00-0200-750-710-071-0071). The Secretary of the Tourism Development Cabinet shall have the ability to transfer these funds to other programs and budget units within the Executive Branch. Any funds transferred to other agencies within the Tourism Development Cabinet shall be designated as Restricted Funds and may be used to support the activities, programs, and operations of the agency receiving the respective funds.

The Tourism Development Cabinet, in conjunction with the Department of Agriculture, shall submit an application with the Governor's Office of Agricultural Policy for funds to support the activities and operations of the Office of Agritourism and the Agritourism Advisory Council.

89. BREAKS INTERSTATE PARK

	2002-03	2003-04
General Fund	196,000	196,000

90. TRAVEL DEVELOPMENT

	2002-03	2003-04
General Fund	6,900,200	6,900,200
Restricted Funds	2,000,000	0
TOTAL	8,900,200	6,900,200

Included in the above Restricted Fund appropriation is $2,000,000 in fiscal year 2002-2003 for the Appalachia Bus Program from the Local Government Economic Development Fund Multi-County Fund.

91. PARKS

	2002-03	2003-04
General Fund	28,857,100	28,857,100
Restricted Funds	50,998,000	52,400,000
Federal Funds	14,000	0
TOTAL	79,869,100	81,257,100

Notwithstanding KRS 148.800, 148.805, and 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

92. KENTUCKY HORSE PARK

	2002-03	2003-04
General Fund	1,750,000	1,650,000
Restricted Funds	5,942,000	5,632,000
TOTAL	7,692,000	7,282,000

93. KENTUCKY STATE FAIR BOARD

	2002-03	2003-04
General Fund	407,000	712,000
Restricted Funds	30,163,000	30,059,500
TOTAL	30,570,000	30,771,500

Included in the Restricted Funds appropriation is $371,000 in fiscal year 2002-2003 and $371,000 in fiscal year 2003-2004 for debt service for Project 55.

Any available Restricted Funds included in the State Fair Board's Capital Budget Account may be transferred to the operating budget to support personnel and operating expenses of the State Fair Board.

Included in the above General Fund appropriation in fiscal year 2003-2004 is $305,000 for debt service to support Bond Funds totaling $3,300,000 for the purchase of a Department of Transportation Building adjacent to the property owned by the State Fair Board and to replace roofs.

94. FISH AND WILDLIFE RESOURCES

	2002-03	2003-04
Restricted Funds	27,381,000	28,658,000
Federal Funds	7,850,000	7,650,000
TOTAL	35,231,000	36,308,000

TOTAL-TOURISM DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	42,284,100	42,489,100
Restricted Funds	116,603,000	117,949,500
Federal Funds	7,864,000	7,650,000
TOTAL	166,751,100	168,088,600

P. TRANSPORTATION CABINET

95. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2002-03	2003-04
Restricted Funds	4,817,200	4,817,900
Federal Funds	13,800	9,400
TOTAL	4,831,000	4,827,300

Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

b. Revenue Sharing

	2002-03	2003-04
Road Fund	220,520,900	224,762,500

1. Included in the above Road Fund appropriation is $83,411,500 in fiscal year 2002-2003 and $85,021,900 in fiscal year 2003-2004 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2002-2003 and $38,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $101,187,800 in fiscal year 2002-2003 and $103,141,400 in fiscal year 2003-2004 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2002-2003 and $46,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $35,096,600 in fiscal year 2002-2003 and $35,744,200 in fiscal year 2003-2004 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2002-2003 and $16,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $825,000 in fiscal year 2002-2003 and $825,000 in fiscal year 2003-2004 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

c. Public Transportation

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	2,506,100	874,100
Federal Funds	28,864,900	27,517,000
TOTAL	36,891,300	33,266,400

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for nonpublic school transportation.

Included in the above General Fund appropriation is $645,000 in fiscal year 2002-2003 to match federal grants for the TARC Transportation Tomorrow Rapid Transit Study.

d. Highways

	2002-03	2003-04
Restricted Funds	61,627,300	61,633,800
Federal Funds	495,939,000	496,114,400
Road Fund	586,293,600	598,113,200
TOTAL	1,143,859,900	1,155,861,400

1. Included in the above Road Fund appropriation is $225,082,700 in fiscal year 2002-2003 and $219,103,800 in fiscal year 2003-2004 for the State Funded Construction Program.

Included in the State Funded Construction Program is $66,000,000 in fiscal year 2002-2003 and $67,320,000 in fiscal year 2003-2004 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 from the Road Fund for the Specialized Contracts Account.

Included in the State Funded Construction Program is $121,582,700 in fiscal year 2002-2003 and $113,543,800 in fiscal year 2003-2004 from the Road Fund for state construction projects in the 2002-2004 Biennial Highway Construction Program. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

Included in the State Funded Construction Program is $37,000,000 in fiscal year 2002-2003 and $37,740,000 in fiscal year 2003-2004 for the Highway Construction Contingency Account. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

2. Projects in the enacted 2000-2002 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2002-2004 biennium.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2002-2003 and $290,000 in fiscal year 2003-2004 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 from the sale of surplus equipment to purchase new highway equipment.

e. Vehicle Regulation

	2002-03	2003-04
Restricted Funds	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200
Road Fund	30,031,700	31,333,800
TOTAL	39,820,000	40,859,300

f. Debt Service

	2002-03	2003-04
Road Fund	167,660,900	161,312,100

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2002-2003 and $620,600 in fiscal year 2003-2004 for toll road lease-rental payments.

2. Included in the above Road Fund appropriation is $26,334,900 in fiscal year 2002-2003 and $38,889,500 in fiscal year 2003-2004 for Resource Recovery Road lease- rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $140,705,400 in fiscal year 2002-2003 and $121,802,000 in fiscal year 2003-2004 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2002-2004 biennium.

g. General Administration and Support

	2002-03	2003-04
Restricted Funds	29,050,000	29,050,000
Road Fund	70,288,300	75,914,900
TOTAL	99,338,300	104,964,900

Included in the above Road Fund appropriation is $7,165,600 in fiscal year 2002-2003 and $7,335,500 in fiscal year 2003-2004 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

h. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2002, and June 30, 2003, shall not lapse and shall carry forward to the next fiscal year.

TOTAL - TRANSPORTATION CABINET

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	105,002,300	103,075,100
Federal Funds	527,604,300	526,467,000
Road Fund	1,074,795,400	1,091,436,500
TOTAL	1,712,922,300	1,725,853,900

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

96. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2002-03	2003-04
General Fund	1,116,100	1,116,100
Restricted Funds	6,661,200	6,696,400
Federal Funds	190,300	175,400
TOTAL	7,967,600	7,987,900

97. TECHNICAL EDUCATION

	2002-03	2003-04
General Fund	23,150,300	23,150,300
Restricted Funds	20,637,400	19,672,600
Federal Funds	13,037,200	13,037,200
TOTAL	56,824,900	55,860,100

Included in the above General Fund appropriation is $1,600,000 in fiscal year 2002-2003 and $521,000 in fiscal year 2003-2004 to provide for start-up costs for the Lincoln County and Jackson County vocational technical schools. In addition, the above General Fund appropriation includes $644,800 in fiscal year 2002-2003 and $344,600 in fiscal year 2003-2004 to support the ongoing operational costs of the Lincoln County and Jackson County vocational technical schools. Notwithstanding KRS 45.229, funds allocated for the ongoing operational costs remaining at the end of fiscal year 2002-2003 shall not lapse but shall be carried forward to fiscal year 2003-2004.

Notwithstanding KRS 341.835, up to $550,000 from the Unemployment Insurance Penalty and Interest Account in the Department for Employment Services shall be transferred in fiscal year 2002-2003 to the Department for Technical Education to operate training programs.

98. ADULT EDUCATION AND LITERACY

	2002-03	2003-04
General Fund	10,807,600	10,807,600
Restricted Funds	11,104,300	11,104,300
Federal Funds	12,624,500	15,149,400
TOTAL	34,536,400	37,061,300

99. VOCATIONAL REHABILITATION

	2002-03	2003-04
General Fund	11,045,200	11,236,400
Restricted Funds	2,911,100	2,955,100
Federal Funds	43,328,800	44,193,800
TOTAL	57,285,100	58,385,300

100. DEPARTMENT FOR THE BLIND

	2002-03	2003-04
General Fund	1,282,800	1,492,600
Restricted Funds	1,948,800	1,979,000
Federal Funds	7,484,600	7,636,700
TOTAL	10,716,200	11,108,300

101. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2002-03	2003-04
General Fund	4,627,700	4,743,400

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

102. TRAINING AND REEMPLOYMENT

	2002-03	2003-04
Federal Funds	48,530,400	49,350,300

103. EMPLOYMENT SERVICES

	2002-03	2003-04
General Fund	69,000	69,000
Restricted Funds	6,051,700	7,443,500
Federal Funds	617,825,500	509,917,900
TOTAL	623,946,200	517,430,400

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs and up to $550,000 in fiscal year 2002-2003 shall be transferred to the Department for Technical Education to operate training programs.

In addition to supplementing the Unemployment Insurance Trust Fund, Federal Funds available to Kentucky as a result of the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the administration of the unemployment compensation law and the public employment offices for costs allowable under the Unemployment Insurance and Wagner-Peyser Programs, subject to the provisions of KRS 48.630.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	52,098,700	52,615,400
Restricted Funds	49,314,500	49,850,900
Federal Funds	743,021,300	639,460,700
TOTAL	844,434,500	741,927,000

R. BUDGET RESERVE TRUST FUND

	2002-03	2003-04
General Fund	5,087,400	10,000,000
TOTAL	5,087,400	10,000,000

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2002-2004 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04

1. Governor's Office for Technology

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a. Statewide Microwave Network Maintenance

	2002-03	2003-04
Investment Income	1,500,000	

b. Unified Criminal Justice Information System

Reauthorization

Capital Construction Surplus - Additional 1,000,000

	2002-03	2003-04
Restricted Funds	805,000	
TOTAL	1,805,000	

	c.	KY Information Highway Upgrade Expansion - Additional		
		Restricted Funds	1,750,000	1,750,000
	d.	Enterprise Server Complex Upgrade - Additional		
		Restricted Funds	2,370,000	2,370,000
	e.	Disk Storage Upgrade - Additional		
		Restricted Funds	887,000	887,000
	f.	Tape Storage Upgrade - Additional		
		Restricted Funds	645,000	645,000
	g.	Enterprise Messaging		
		Restricted Funds	660,000	
	h.	Franklin County - Lease		
2.	Department of Veterans' Affairs			
	a.	New State Veterans' Cemetery-Northern KY		
		General Fund	50,000	
		Federal Funds	9,500,000	
		TOTAL	9,550,000	
	b.	New State Veterans' Cemetery-Central KY		
		General Fund	50,000	
		Federal Funds	8,900,000	
		TOTAL	8,950,000	
3.	Kentucky Infrastructure Authority			
	a.	KIA Fund A - Federally Assisted Wastewater Program		
		Bond Funds	6,200,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants Program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

	b.	KIA Fund F - Drinking Water Revolving Loan Program		
		Bond Funds	5,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

	c.	Kentucky Pride Fund Projects		
		Bond Funds	25,000,000	
4.	Treasury Department			
	a.	Checksealer Equipment - Lease - Additional		
		Capital Construction Surplus	63,000	63,000
	b.	Laser Check Printers - Lease - Additional		
		Capital Construction Surplus	257,000	256,000
5.	Attorney General			
	a.	Franklin County - Lease		
6.	Unified Prosecutorial System - Commonwealth's Attorneys			
	a.	Jefferson County - Lease		
7.	Department of Agriculture			
	a.	Large Scale Tractor		
		Restricted Funds	175,000	
	b.	Purchase of Agriculture Conservation Easements		

		Federal Funds	460,000	
	c.	Livestock Scale Testing Unit		
		Restricted Funds	100,000	
	d.	Franklin County - Lease		
	e.	Animal Shelters		
		Bond Funds	1,600,000	
8.		Department of Military Affairs		
	a.	Construct Maintenance Shop- London		
		Federal Funds	3,640,000	
	b.	Construct Combined Support Maintenance Shop		
		Federal Funds	10,465,000	
	c.	Construct Army Aviation Support Facility		
		Federal Funds	17,500,000	
	d.	Construct Fixed Wing Aviation Facility		
		Federal Funds	4,000,000	
	e.	Upgrade HVAC Ashland Armory (Guaranteed Energy Performance Contract)		
	f.	Upgrade HVAC Owensboro Armory (Guaranteed Energy Performance Contract)		
	g.	Construct Addition to Facilities Building		
		Federal Funds	911,000	
	h.	Maintenance Pool		
		Investment Income	743,400	742,900
	i.	Maintenance Pool - Air Transportation		
		Investment Income	371,700	371,400
	j.	Maintenance Pool - Bluegrass Station		
		Restricted Funds	500,000	500,000
	k.	Franklin County - Lease		
9.		Department for Local Government		
	a.	Flood Control Matching Fund		
		Bond Funds	3,000,000	
		Capital Construction and Equipment Purchase Contingency Fund	300,000	
		TOTAL	3,300,000	
	b.	Renaissance Kentucky		
		Bond Funds	6,000,000	

10. Morgan County - Park Development - Caney Creek
Reauthorization and Reallocation ($30,709 - Bond Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Morgan County Bridge Project appropriated by the 2000 General Assembly in the amount $200,000 in Bond Funds (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, item number 556, Morgan County Bridge Project). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., Governor's Office for Technology, of this Act, this project is reauthorized and reallocated to provide for development of a park at the mouth of Caney Creek.

11. Breathitt County - Breathitt County High School Fieldhouse
Reauthorization and Reallocation ($250,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Breathitt County - Breathitt County High School Fieldhouse project appropriated by the 2000 General Assembly in the amount of $250,000 in Restricted Funds (2000 Ky. Acts ch. 549, Part II, S. Coal Severance Tax Projects, (1) Government Operations, item number 14, Breathitt County - Breathitt County High School Fieldhouse). In accordance with the provisions of Capital Projects Budget

Provisions for Part II, Capital Projects, 1., Governor's Office for Technology, of this Act, this project is reauthorized and $250,000 is reallocated to Breathitt County Schools and retitled as "Breathitt County-Recreational Playing Areas."

12. Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham

Reauthorization and Reallocation ($200,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham Project appropriated by the 2000 General Assembly in the amount of $500,000 in Restricted Funds (2000 Ky. Acts ch. 549, Part II, S. Coal Severance Tax Projects, (1) Government Operations, item number 175, Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and $200,000 is reallocated to the City of Greenville to provide for a mini-park/green space between the existing court house and the new Judicial Center and for new sidewalks and curbing around the judicial center being constructed in Muhlenberg County, Greenville, Kentucky.

13. Fleming County Fiscal Court - Fire Departments

Reauthorization and Reallocation ($100,000 - General Fund)

The project cited immediately above is authorized from a reallocation of the available balance of the Fleming County Fiscal Court - Environmental Program project appropriated by the 2000 General Assembly in the amount of $100,000 from the General Fund (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects 1. Finance and Administration Cabinet, General Administration, item number 188, Fleming County Fiscal Court - Environmental Program.) In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and $100,000 is reallocated to Fleming County Fiscal Court and entitled Fleming County Fiscal Court - Volunteer Fire Departments to be distributed equally among the five Fleming County Volunteer Fire Departments.

14. Kentucky Retirement Systems
    a. Franklin County - Lease
    b. Franklin County - Lease

15. Board of Nursing
    a. Jefferson County – Lease

16. Kentucky River Authority
    a. Kentucky River Storage Enhancements

Restricted Funds	30,000	2,500,000

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	2002-03	2003-04
1. Economic Development Projects		
a. Kentucky Economic Development Finance Authority Bond Pool		
Bond Funds	15,000,000	
b. Economic Development Bond Pool		
Bond Funds	5,000,000	

C. EDUCATION

Budget Unit	2002-03	2003-04
1. Department of Education		
a. Security, Fire Alarm, & Energy Systems - Kentucky School for the Blind		
Bond Funds	450,000	
b. Replace Kerr Hall HVAC - Kentucky School for the Deaf		
Bond Funds	1,067,000	
c. Maintenance Pool		
Investment Income	557,600	557,100
d. Roof Repair - Kentucky School for the Deaf		
Capital Construction Surplus	520,000	

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2002-03	2003-04

1. School Facilities Construction Commission

Reauthorization ($28,000,000 Bond Funds)

		Bond Funds - Additional	136,865,000	
2.	Kentucky Educational Television			
	a.	Camera Replacement		
		Restricted Funds	445,000	
3.	Kentucky Center for the Arts			
	a.	Maintenance Pool		
		Investment Income	139,400	139,400
	b.	Chiller Replacement		
		Investment Income	250,000	
	c.	Water Leak and Window Repair		
		Deferred Maintenance	957,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit			2002-03	2003-04
1.	Administration Services			
	a.	Lease - Disability Determinations Franklin County		
	b.	Lease - Fayette County		
	c.	Lease - Warren County		
	d.	Lease - Kenton County		
	e.	Lease including expansion - Jefferson County		
	f.	Lease - Hardin County		
	g.	Lease - Kenton County		
	h.	Lease - Campbell County		
	i.	Lease - Child Support Franklin County		
	j.	Lease including expansion - Letcher County		
	k.	Lease - OTS Franklin County		
	l.	Lease including expansion - Harlan County		
	m.	Lease including expansion - Henderson County		
	n.	Lease including expansion - Perry County		
	o.	Lease - Shelby County		
	p.	Lease including expansion - Fayette County		
	q.	Lease - Johnson County		
	r.	Lease including expansion - Boyd County		
	s.	Lease including expansion - Boone County		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit			2002-03	2003-04
1.	Office of the Secretary			
	a.	Hardin County - Elizabethtown - Children's Science and Learning Center Reauthorization and Reallocation ($367,057.67 - General Fund)		

The project cited immediately above is authorized from a reallocation of available balance of the Hardin County - Elizabethtown - Children's Science and Learning Center project appropriated by the 1998 General Assembly from the General Fund in the amount of $500,000 (1998 Ky. Acts ch. 615, Part II, Capital Projects Budget, F. Finance and Administration Cabinet, 4. Office of the Secretary Community Infrastructure Projects, item k. Elizabethtown - Children's Science and Learning Center). This project is reauthorized and $100,000 is reallocated for the Community Health Clinic of Hardin and Larue Counties, $50,000 is reallocated for the Spring Haven, Inc. Domestic Violence Center in Elizabethtown, $50,000 is reallocated to the Advocacy and Support Center for Sexual Assault and Abuse in Elizabethtown, and $167,057.67 is reallocated for the renovation of the Historic State Theatre Project. The Secretary of the Finance and Administration Cabinet may reassign projects to another appropriate state agency by Administrative Order after notification has been made to the Interim Joint Committee on Appropriations and Revenue and to the Capital Projects and Bond Oversight Committee.

2.	Department for Administration			
	a.	Franklin County - Lease		

3.	Department for Facilities Management		
a.	Capitol Historic Restoration/Asbestos Removal/Repair - State Office Building		
	Reauthorization/Reallocation		
	(6,000,000 - Bond Funds)		
b.	Energy Efficiency in State Government Buildings		
	Restricted Funds	1,075,000	
c.	Replace Roof - Civic Center		
	Investment Income	1,200,000	
d.	Maintenance Pool		
	Investment Income	3,386,400	3,250,000
	Restricted Funds	240,000	100,000
	TOTAL	3,626,400	3,350,000
e.	Modernize Elevators/Escalators - Various Buildings		
	Investment Income	1,300,000	
f.	Install Building Security Systems - Various Buildings		
	Restricted Funds	750,000	
g.	Capital Construction and Equipment Purchase Contingency Fund		
	Restricted Funds	3,350,000	
h.	Emergency Repair, Maintenance and Replacement Fund		
	Restricted Funds	4,195,000	
4.	Lottery Corporation		
a.	Network Storage and Associated Infrastructure		
	Other Funds	930,000	
b.	Contingency on Property Adjacent to New Headquarters		
	Other Funds	3,500,000	
c.	Data Processing, Telecommunication, and Related Equipment		
	Other Funds	3,500,000	
d.	Potential Buyout of On-Line Gaming System		
	Other Funds	18,450,000	
e.	Instant Ticket Vending Machine		
	Other Funds	900,000	900,000
f.	Pull Tab Ticket Vending Machines		
	Other Funds	1,500,000	1,500,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit		2002-03	2003-04
1.	Public Health		
a.	Kentucky All Schedule Prescription Electronic Reporting		
	Bond Funds	1,474,000	
2.	Department for Mental Health/Mental Retardation Services		
a.	Miscellaneous Roof Replacement/Repair Pool		
	Bond Funds	700,000	
b.	Statewide Chiller Replacement Pool		
	Bond Funds	612,000	
c.	Franklin County - Lease		
d.	Maintenance Pool		
	Investment Income	1,301,000	1,300,000

e. Water Piping Replacement System - Eastern State Hospital/Veterans Hospital Relocation		
Reauthorization & Reallocation		
Capital Construction Surplus - Additional250,000		
f. Sprinkler System/Ward Renovation - Western State Hospital		
Bond Funds	2,200,000	
g. Structural Repair/Renovation - Oakwood		
Bond Funds	2,009,000	
h. Sprinkler System - Central State Hospital		
Investment Income	850,000	
i. Veterans Administration Hospital - Lease		

H. JUSTICE CABINET

Budget Unit	2002-03	2003-04
1. Justice Administration		
a. Purchase 2 Gas/Liquid Chromatograph Mass/Spectrometers		
Capital Construction Surplus	250,000	
2. Department of State Police		
a. Purchase of Equipment for DNA Analysis		
Restricted Funds	136,000	136,000
b. Maintenance Pool		
Investment Income	232,300	232,100
3. Department of Juvenile Justice		
a. Combined Residential/Detention Facility - Hardin -Additional		
Federal Funds	1,000,000	
b. Secure Juvenile Detention Facility #3 - Boyd - Additional		
Federal Funds	500,000	
c. Maintenance Pool		
Investment Income	371,700	371,400
d. Purchase Land/Build Gym/Class Cadet Leadership/Education Program		
Restricted Funds	130,000	
Federal Funds	1,170,000	
TOTAL	1,300,000	
e. Add Classrooms - Green River Youth Development Center		
Restricted Funds	60,000	
Federal Funds	540,000	
TOTAL	600,000	
4. Corrections Management		
a. Replace/Repair Roofs - Green River Correctional Complex		
Bond Funds	2,500,000	
b. Replace Underground Steam & Condensate Lines - Blackburn Correctional Complex		
Bond Funds	1,260,000	
c. Replace Fire Alarm System - Luther Luckett Correctional Complex		
Bond Funds	1,000,000	
d. Replace Dorm Roofs - Northpoint Training Center		
Bond Funds	600,000	
e. Replace Four Color Heidelberg Printing Press		
Restricted Funds	900,000	

f. Purchase Plascon Bagmaking Machine		
Restricted Funds	160,000	
g. Various Adult Correctional Institutions (Guaranteed Energy Performance Contract)		
h. Maintenance Pool		
Investment Income	1,672,700	1,671,400
i. New Medium Security Facility/Design Elliott County Phase II Reauthorization and Reallocation (1,800,000 - Bond Funds)		
j. Fayette County - Lease		
k. Boot Camp/Substance Abuse Treatment Center-Roederer Correctional Complex Reauthorization and Reallocation (1,004,000 - Bond Funds)		

I. LABOR CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. Franklin County - Lease		
2. Workers' Claims		
a. Franklin County - Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. KY Heritage Land Conservation		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
TOTAL	4,000,000	4,000,000
b. Maintenance Pool		
Investment Income	93,000	92,900
2. Department for Environmental Protection		
a. Hazardous Waste Management Fund		
Restricted Funds	2,100,000	2,100,000
b. Leaking Underground Storage Tanks		
Restricted Funds	500,000	500,000
c. Franklin County - Lease (Water)		
d. Franklin County - Lease (Air Quality)		
e. Construct Deep Well Monitoring - Maxey Flats		
Capital Construction and Equipment Purchase Contingency Fund	500,000	
3. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease		
4. Kentucky Nature Preserves Commission		
a. KY Nature Preserves Acquisition		
Other Funds	300,000	300,000

K. PERSONNEL CABINET

Budget Unit	2002-03	2003-04
1. Personnel		
a. Franklin County - Lease		
b. Computer Equipment - Kentucky Employees' Self-Service Project		
Capital Construction Surplus		200,000

L. POSTSECONDARY EDUCATION

Budget Unit			2002-03	2003-04
1.	Council on Postsecondary Education			
	a.	Fire/ Life Safety/ Infrastructure - Agency Bond Pool		
		Agency Bonds	80,000,000	
	b.	Franklin County - Lease		
	c.	Research Challenge Trust Fund - Endowment Match		
		Bond Funds	100,000,000	
	d.	Regional University Excellence Trust Fund - Endowment Match		
		Bond Funds	20,000,000	
	e.	Renovation/ Infrastructure/ New Construction - Agency Bond Pool Agency Bonds	75,000,000	
2.	Kentucky Higher Education Assistance Authority			
	a.	Upgrade Information Technology Systems		
		Restricted Funds	650,000	
	b.	Franklin County - Lease		
	c.	KY Higher Education Student Loan Corporation Lease - Jefferson County		
3.	Eastern Kentucky University			
	a.	Maintenance Pool		
		Restricted Funds	10,000,000	
	b.	E & G Life Safety Begley Elevator		
		Restricted Funds	750,000	
	c.	Various Buildings (Guaranteed Energy Savings Project)		
	d.	Expand, Upgrade Campus Data Network		
		Restricted Funds	1,000,000	
	e.	Purchase Network Education System Component		
		Restricted Funds	2,050,000	
	f.	Upgrade Academic Computing		
		Restricted Funds	1,000,000	
	g.	Upgrade Administrative Computing System		
		Restricted Funds	1,100,000	
	h.	Property Acquisition		
		Restricted Funds	3,000,000	
	i.	Replace Student Housing, Brockton		
		Restricted Funds	8,250,000	
	j.	Expand and Renovate Presnell Building		
		Restricted Funds	2,000,000	
	k.	Expand Indoor Tennis Facility		
		Restricted Funds	1,000,000	
	l.	Watts Property (Elmwood) Renovation		
		Restricted Funds	2,000,000	
	m.	Greek Row		
		Reauthorization		
	n.	Construction of New Water Line - Corbin Campus/Reauthorization and Reallocation		
		Bond Funds (422,000)		

4.	Kentucky State University			
	a.	Renovate and Expand Student Center		
		Reauthorization		
		Restricted Funds - Additional	4,400,000	
	b.	Young Hall Renovation		
		Reauthorization		
		Restricted Funds - Additional	6,214,000	
	c.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	1,500,000	
	d.	Migrate to Client-Server and Laptop Campus Technology		
		Restricted Funds	860,000	
	e.	Enhance Distance Education		
		Restricted Funds	560,000	
	f.	Extend Fiber Network to South Campus		
		Restricted Funds	806,000	
	g.	Enhance Web Site		
		Restricted Funds	410,000	
	h.	Implement Smart Card Technology		
		Restricted Funds	1,120,000	
	i.	Various Buildings		
		(Guaranteed Energy Savings Project)		
	j.	Cooperative Extension Building Expansion		
		Reauthorization		
		Restricted Funds - Additional	3,224,000	
5.	Morehead State University			
	a.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	3,414,000	3,414,000
	b.	Life Safety: Auxiliary Facilities		
		Restricted Funds	3,000,000	
	c.	Parking Structure		
		Restricted Funds	6,000,000	
	d.	Life Safety: E & G Facilities		
		Restricted Funds	1,350,000	
	e.	Life Safety: Claypool-Young Building		
		Restricted Funds	500,000	
	f.	Americans with Disabilities Act - E & G		
		Restricted Funds	600,000	600,000
	g.	Combs Theatre Area Reclamation		
		Restricted Funds	1,100,000	
	h.	Button Auditorium Renovation		
		Restricted Funds	3,000,000	
	i.	Various Buildings		
		(Guaranteed Energy Savings Project)		
	j.	Americans with Disabilities Act - Auxiliary		
		Restricted Funds	600,000	600,000
	k.	Land Acquisitions Related to Master Plan		
		Restricted Funds	2,000,000	
	l.	Instructional Technology Initiatives		

	Restricted Funds	2,159,000
m.	HPLC-Mass Spectrometer	
	Restricted Funds	140,000
n.	Instructional and Support Equipment	
	Restricted Funds	1,334,000
o.	Nuclear Magnetic Resonance Equipment	
	Restricted Funds	210,000
p.	Network/Infrastructure Resources	
	Restricted Funds	2,250,000
q.	Library Automation Resources	
	Restricted Funds	750,000
r.	Distance Learning Systems	
	Restricted Funds	2,500,000
s.	Compressed Video Resources	
	Restricted Funds	1,891,000
t.	Instructional PC's/LANS/Peripherals	
	Restricted Funds	2,500,000
u.	Administrative Office Systems	
	Restricted Funds	2,000,000
v.	Central Campus Reconstruction	
	Restricted Funds	780,000
w.	Student Wellness Center Expansion	
	Restricted Funds	700,000
x.	Kentucky Center for Traditional Music - Phase I	
	Restricted Funds	1,000,000
y.	Construction of Family Housing Complexes - Phase II	
	Restricted Funds	4,000,000
z.	Tour Bus	
	Restricted Funds	400,000
6.	Murray State University	
a.	Construct Recreation/Wellness Center	
	Restricted Funds	10,000,000
b.	Equine Instruction Facility Addition	
	Restricted Funds	902,600
c.	Various Buildings (Guaranteed Energy Savings Project)	
d.	Campus Electrical Distribution System Upgrade	
	Restricted Funds	10,765,000
e.	Construct New Dormitories	
	Restricted Funds	10,154,000
f.	Woods Hall Mechanical and HVAC System Upgrade	
	Restricted Funds	2,000,000
g.	Land Acquisition	
	Restricted Funds	500,200
h.	Elizabeth Hall Asbestos Ceilings	
	Restricted Funds	450,000
i.	Hester Hall Asbestos Ceilings	
	Restricted Funds	450,000

j.	College Courts Renovation	
	Restricted Funds	3,636,000
k.	College Courts Interiors (12 Buildings) Renovation	
	Restricted Funds	2,000,000
l.	Clark Hall Replacement	
	Restricted Funds	8,000,000
m.	Clark Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
n.	Replace Richmond Hall	
	Restricted Funds	8,000,000
o.	College Courts Electrical System Upgrade	
	Restricted Funds	1,200,000
p.	Franklin Hall Replacement	
	Restricted Funds	8,000,000
q.	Heating and Cooling Plant Boiler Replacement	
	Restricted Funds	666,000
r.	Sparks Hall Electrical System Upgrade	
	Restricted Funds	952,000
s.	Wells Hall Electrical System Upgrade	
	Restricted Funds	600,000
t.	Applied Science Electrical System Upgrade	
	Restricted Funds	850,000
u.	Renovate Sparks Hall HVAC System	
	Restricted Funds	500,000
v.	Special Education HVAC System	
	Restricted Funds	500,000
w.	Pogue Library Electric and HVAC Renovation	
	Restricted Funds	750,000
x.	Business Building Electricity, HVAC and Classrooms Phase I	
	Restricted Funds	1,530,000
y.	General Services HVAC System Renovation	
	Restricted Funds	500,000
z.	E & G Chiller/CFC Compliance Replacement	
	Restricted Funds	585,000
aa.	Doyle Fine Arts HVAC and Energy Replacement/Retrofit	
	Restricted Funds	750,000
ab.	Richmond Hall (Residential College) Renovation	
	Restricted Funds	2,500,000
ac.	Richmond Hall Interior Renovation	
	Restricted Funds	500,000
ad.	Richmond Hall Water Piping/Fixtures Replacement	
	Restricted Funds	600,000
ae.	Clark Hall Interior Renovation	
	Restricted Funds	500,000
af.	Clark Hall Electrical System Renovation	
	Restricted Funds	400,000
ag.	Clark Hall HVAC System Renovation	
	Restricted Funds	1,000,000

ah.	Franklin Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ai.	Franklin Hall Electrical System Renovation	
	Restricted Funds	400,000
aj.	Franklin Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
ak.	Franklin Hall Interior Renovation	
	Restricted Funds	600,000
al.	Springer Hall HVAC and Electrical System Renovation	
	Restricted Funds	2,000,000
am.	Richmond Hall Electrical System Renovation	
	Restricted Funds	400,000
an.	Springer Hall Water Piping, Fixtures Replacement	
	Restricted Funds	800,000
ao.	Springer Hall Interior Renovation	
	Restricted Funds	600,000
ap.	Hart Hall Renovation	
	Restricted Funds	5,000,000
aq.	Hart Hall Chiller, Boilers, Towers Replacement	
	Restricted Funds	1,200,000
ar.	Hart Hall Electrical System Renovation	
	Restricted Funds	650,000
as.	Elizabeth Hall Electrical System Renovation	
	Restricted Funds	550,000
at.	Hester Hall HVAC System Renovation	
	Restricted Funds	1,000,000
au.	Hester Hall Interior Renovation	
	Restricted Funds	700,000
av.	Hester Hall Boiler, Water Heater Replacement	
	Restricted Funds	600,000
aw.	Hester Hall Electrical System Renovation	
	Restricted Funds	580,000
ax.	Winslow Cafeteria Mechanical Equipment Replacement	
	Restricted Funds	500,000
ay.	Winslow Cafeteria Exterior Repair	
	Restricted Funds	500,000
az.	Elizabeth Hall HVAC System Renovation	
	Restricted Funds	1,200,000
ba.	White Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bb.	White Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bc.	White Hall Electrical System Renovation	
	Restricted Funds	600,000
bd.	White Hall Interior Renovation	
	Restricted Funds	700,000
be.	Regents Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000

bf.	Regents Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bg.	Regents Hall Electrical System Renovation	
	Restricted Funds	650,000
bh.	Regents Hall Interior Renovation	
	Restricted Funds	800,000
bi.	Hart Hall Interior Renovation	
	Restricted Funds	1,200,000
bj.	Elizabeth Hall Interior Renovation	
	Restricted Funds	700,000
bk.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	16,885,000
bl.	Telephone Switching System Replacement	
	Restricted Funds	1,000,000
bm.	Waterfield Library HVAC and Mechanical Replacement	
	Restricted Funds	500,000
bn.	Campus Network to Gigabit Ethernet Upgrade	
	Restricted Funds	1,000,000
bo.	Lovett Auditorium Shell/Seats Replacement and Repair	
	Restricted Funds	550,000
bp.	350-Ton Chiller - Regional Special Events Center	
	Restricted Funds	400,000
bq.	COLT Ubiquitous Computing	
	Restricted Funds	434,000
br.	Baseball Field and Stadium Sidewalk Light	
	Restricted Funds	600,000
bs.	BVC Electron Microscope - Scanning	
	Restricted Funds	300,000
bt.	BVC Electron Microscope - Transmission	
	Restricted Funds	250,000
bu.	Broadcasting Education Lab Equipment	
	Restricted Funds	200,000
bv.	Business and Public Affairs Equipment	
	Restricted Funds	300,000
bw.	Central On-Line Storage System	
	Restricted Funds	966,000
bx.	College of Science Instructional/Research Equipment	
	Restricted Funds	300,000
by.	Fine Arts Studio Equipment	
	Restricted Funds	419,000
bz.	ICP-MS Fisions Instruments	
	Restricted Funds	142,000
ca.	Music Computer Equipment	
	Restricted Funds	250,000
cb.	Optics Lab Equipment	
	Restricted Funds	170,000
cc.	Recording/Playback Lab & Instrument	
	Restricted Funds	188,000

	cd.	Regional Center for Emerging Technology	
		Other Funds	3,000,000
	ce.	Winslow Dining Hall	
		Agency Bonds	1,750,000
7.	Northern Kentucky University		
	a.	New Student Union Design	
		Restricted Funds	1,200,000
	b.	Power Distribution Infrastructure Replacement	
		Restricted Funds	700,000
	c.	Structure in AS and T Center Repair	
		Restricted Funds	500,000
	d.	Welcome Center Renovation	
		Restricted Funds	700,000
	e.	Capital Renewal and Maintenance Projects	
		Restricted Funds	2,315,000
	f.	Land Acquisition	
		Restricted Funds	2,500,000
	g.	Central Plaza Reconstruction	
		Restricted Funds	900,000
	h.	Digital Telecom System	
		Restricted Funds	1,900,000
	i.	Baseball Field Relocation	
		Restricted Funds	1,500,000
	j.	Information Technology Infrastructure	
		Restricted Funds	2,700,000
	k.	Administrative Application System	
		Restricted Funds	2,500,000
	l.	Intramural Sports Field	
		Restricted Funds	750,000
	m.	Coach Bus	
		Restricted Funds	375,000
	n.	Color Press	
		Restricted Funds	235,000
	o.	NMR Spectrometer	
		Restricted Funds	385,000
	p.	Various Buildings (Guaranteed Energy Savings Project)	
	q.	New Residence Hall	
		Reauthorization	
	r.	Construct Parking Deck	
		Restricted Funds	9,100,000
	s.	Metropolitan Education and Training Center - Lease	
8.	University of Kentucky		
	a.	Early Childhood Education Lab	
		Restricted Funds	8,000,000
	b.	Replace Oswald Building Roof	
		Restricted Funds	1,089,000
	c.	Improve Storm Sewer Funkhouser	

	Restricted Funds	1,003,000	
d.	Renovate Agriculture Building North Facade		
	Restricted Funds	3,820,000	
e.	Renovate King South Building I		
	Restricted Funds		8,025,000
f.	Upgrade Vivarium, I		
	Restricted Funds		4,000,000
g.	Replace Central Fire Alarm System		
	Restricted Funds		3,000,000
h.	Replace Central Facilities Management System		
	Restricted Funds		3,000,000
i.	Replace Steam and Condensate Pipe		
	Restricted Funds		5,350,000
j.	Improve Central Heating Plant		
	Restricted Funds		2,750,000
k.	Replace Master Clock and Bell System		
	Restricted Funds		1,500,000
l.	Replace High Voltage Wiring		
	Restricted Funds		441,000
m.	Replace Three Elevators MIK Library South		
	Restricted Funds		742,000
n.	Abate Mercury Lexington Campus - Life Safety		
	Restricted Funds	1,000,000	
o.	Upgrade Fume Hoods -LC - Life Safety		
	Restricted Funds	7,015,000	
p.	Upgrade Pharmacy Fume Hood I - Life Safety		
	Restricted Funds	4,300,000	
q.	Abate Asbestos LC II - Life Safety		
	Restricted Funds	500,000	
r.	Improve Indoor Air Quality - Phase I - Life Safety		
	Restricted Funds		500,000
s.	Upgrade HVAC - CAER Ph. III - Life Safety		
	Restricted Funds		450,000
t.	Improve Barker Hall - Life Safety		
	Restricted Funds		500,000
u.	Improve Life Safety, Project Pool		
	Restricted Funds		3,708,000
v.	Renovate Livestock Disease Diagnostics Laboratory		
	Restricted Funds		2,800,000
w.	Improve Handicapped Access, Project Pool		
	Restricted Funds		1,908,000
x.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	16,388,000	
y.	Construct Environmental Institute		
	Restricted Funds		12,604,000
z.	Renovate the COHR in the Dental Building		
	Restricted Funds		1,875,000
aa.	Install Chilled Water Pipe-Clg 2 to Pit		

	Restricted Funds		1,300,000
ab.	Install Cooling Secondary Pumping		
	Restricted Funds		2,250,000
ac.	Renovate Medical Center Library		
	Restricted Funds		2,000,000
ad.	Install Medical Center Chilled Water Loop		
	Restricted Funds		625,000
ae.	Expand Plant Capacity/Infrastructure		
	Restricted Funds	15,000,000	
af.	Renovate Education Space in Medical Science		
	Restricted Funds		2,300,000
ag.	Renovate Outpatient Clinic in Kentucky Clinic		
	Restricted Funds		2,000,000
ah.	Replace Cooling Plant Chillers		
	Restricted Funds		5,000,000
ai.	Install HVAC in Keeneland Hall		
	Restricted Funds		2,962,000
aj.	Renovate Cooperstown - Phase IVA		
	Restricted Funds		1,279,000
ak.	Install HVAC in Jewell Hall		
	Restricted Funds		1,290,000
al.	Install HVAC in Boyd Hall		
	Restricted Funds		1,715,000
am.	Renovate Labs in the Pharmacy Building		
	Restricted Funds		1,400,000
an.	Renovate Cooperstown - Phase IV		
	Restricted Funds		426,000
ao.	Renovate Parking Structure #1		
	Restricted Funds		7,714,000
ap.	Replace Holmes Elevator		
	Restricted Funds		585,000
aq.	Construct Parking Structure		
	Restricted Funds		16,280,000
ar.	Expand Patient Parking in Structure #3		
	Restricted Funds		7,000,000
as.	Install HVAC in Holmes Hall		
	Restricted Funds		1,700,000
at.	Acquire Land		
	Restricted Funds	15,000,000	
au.	Renovate Running Track		
	Restricted Funds	2,500,000	
av.	Renovate Research Labs in Medical Center, I		
	Restricted Funds		750,000
aw.	Fit-up Research Labs - Allied Health Building		
	Restricted Funds		7,000,000
ax.	Renovate Research Labs in Medical Center, II		
	Restricted Funds		900,000
ay.	Renovate Research Space-Nursing Building		

	Restricted Funds		540,000
az.	Upgrade Communication Infrastructure, II		
	Restricted Funds		450,000
ba.	Renovate Research Space Medical Center, I		
	Restricted Funds		800,000
	Federal Funds		700,000
	TOTAL		1,500,000
bb.	Lease Purchase Campus Infrastructure Upgrade		
	Restricted Funds		3,500,000
bc.	Lease Purchase High Performance Research Computer		
	Restricted Funds	5,000,000	
bd.	Lease Purchase Computing Facility Uninterruptable Power Supply		
	Restricted Funds	400,000	
be.	Lease Purchase Large Scale Computing		
	Restricted Funds	3,500,000	
bf.	Lease Purchase Networked Printer		
	Restricted Funds	200,000	
bg.	Lease Purchase Pool		
	Restricted Funds		10,401,000
bh.	Lease Purchase Telephone Switch		
	Restricted Funds		3,000,000
bi.	Lease Purchase Video Switch		
	Restricted Funds	250,000	
bj.	3-D Scaling Device		
	Federal Funds		100,000
bk.	ABI Prism Sequence Detection System		
	Restricted Funds		100,000
bl.	Analytical Biosensor		
	Restricted Funds	275,000	
bm.	Area Detector Diffractometer		
	Restricted Funds	155,000	
	Federal Funds	155,000	
	TOTAL	310,000	
bn.	Automated DNA Sequencer		
	Restricted Funds	130,000	
bo.	Behavioral Monitoring & Analysis System		
	Restricted Funds	150,000	
bp.	Campus Call Auto Dial		
	Restricted Funds	125,000	
bq.	Capillary Genetic Analyzers		
	Restricted Funds	800,000	
br.	Chain Reaction Analyzer		
	Restricted Funds	150,000	
bs.	Chromatograph Mass Spectrometer, I		
	Restricted Funds	250,000	
bt.	Chromatograph Mass Spectrometer, II		
	Restricted Funds	258,000	
bu.	Combination Metabolic Analyzer		

	Restricted Funds	123,000	
bv.	Compressed Video-Hazard		
	Restricted Funds	141,000	
bw.	Confocal Microscope		
	Restricted Funds	325,000	
bx.	Confocal Microscope		
	Restricted Funds	200,000	
by.	Database Testbed		
	Restricted Funds	225,000	
bz.	Digital Router		
	Restricted Funds	100,000	
ca.	DNA Chip Analysis System		
	Restricted Funds		160,000
cb.	DNA Microarray Chip Reader		
	Federal Funds		450,000
cc.	DNA Microarray Facility		
	Restricted Funds	300,000	
cd.	DNA Microarray System		
	Restricted Funds		285,000
ce.	DNA Sequencer		
	Restricted Funds	135,000	
cf.	DNA Sequencer		
	Restricted Funds	125,000	
cg.	DNA Sequencer, I		
	Restricted Funds	134,000	
ch.	DNA Sequencer, II		
	Restricted Funds	158,000	
ci.	DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
cj.	DNA Synthesizer		
	Restricted Funds	103,000	
ck.	Electron Spin Resonance Instrument		
	Restricted Funds	100,000	
	Federal Funds	100,000	
	TOTAL	200,000	
cl.	Electrophysiologic Analysis System		
	Restricted Funds	207,000	
cm.	Encapsulator		
	Restricted Funds	151,000	
cn.	Environmental Test System		
	Restricted Funds	125,000	
co.	Epi-Fluorescence Microscope		
	Restricted Funds	134,000	
cp.	ESCA-X-Ray Photoelectron Spectroscopy		
	Restricted Funds	400,000	
cq.	Flow Cytometer		
	Restricted Funds	108,000	
cr.	Flow Cytometry Lab Equipment		

	Restricted Funds	375,000	
cs.	Fluorescent Microscope & Image Analyzer		
	Restricted Funds	150,000	
ct.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	
cu.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cv.	Fluorescent Analyzer		
	Restricted Funds	109,000	
cw.	Fluorescent Activated Cell Sorter		
	Restricted Funds	237,000	
cx.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
cy.	Forage Harvester System		
	Restricted Funds	150,000	
cz.	Freeze-Thaw Apparatus		
	Restricted Funds		100,000
da.	Garbage Truck Front Loader		
	Restricted Funds	165,000	
db.	Gas Analyzer		
	Restricted Funds	100,000	
dc.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds		101,000
dd.	Gas Chromatograph/MSD		
	Restricted Funds	110,000	
de.	Gas Chromatograph Mass Spectrograph		
	Restricted Funds		186,000
df.	Gene Chip Analysis Machine		
	Restricted Funds		250,000
dg.	Gene Chip Instrument System		
	Restricted Funds	450,000	
dh.	Genetic Analyzer		
	Restricted Funds		140,000
di.	GIS Teaching Lab		
	Restricted Funds	160,000	
dj.	GVG Video Switch		
	Restricted Funds	250,000	
dk.	High Performance Liquid Chromatography		
	Restricted Funds	131,000	
dl.	High Power CO2 Laser		
	Restricted Funds		250,000
dm.	High Pressure Liquid Chromatograph		
	Restricted Funds		100,000
	Federal Funds		100,000
	TOTAL		200,000
dn.	High Resolution Optical Microscope		
	Restricted Funds	110,000	
do.	High Resolution Phosophor Imager		

	Restricted Funds	206,000	
dp.	High Temperature Optical Microscope		
	Restricted Funds		105,000
dq.	High-Speed Signal Processor		
	Federal Funds	150,000	
dr.	Holographic System/Image Analyzer		
	Restricted Funds		110,000
ds.	HPLC Mass Spectrophotometer		
	Restricted Funds	220,000	
dt.	Image Analysis System		
	Restricted Funds	206,000	
du.	Image Analyzer System		
	Restricted Funds	206,000	
dv.	Inductive Coupled Plasma Spectrometer		
	Restricted Funds		110,000
dw.	Inductive Coupled Plasma Unit		
	Restricted Funds	110,000	
dx.	Inductive Coupled Spectrometer System		
	Restricted Funds		120,000
dy.	Interaction Analyzer		
	Restricted Funds	150,000	
dz.	Inverted Microscope-Fluoroscope		
	Restricted Funds	155,000	
ea.	Inverted Scope		
	Restricted Funds		100,000
eb.	Laser Confocal Microscope		
	Restricted Funds	312,000	
ec.	Laser System		
	Restricted Funds	125,000	
	Federal Funds	125,000	
	TOTAL	250,000	
ed.	LCT Flight Mass Spectrometer		
	Restricted Funds	220,000	
ee.	LIMS Bioinformatics Equipment		
	Federal Funds		136,000
ef.	Liquid Chromatograph		
	Restricted Funds		105,000
eg.	Liquid Chromotograph-Mass Spectrometer		
	Restricted Funds		320,000
eh.	Liquid Filling/Stoppering Line		
	Restricted Funds	351,000	
ei.	Mass Spectrometer		
	Restricted Funds		400,000
ej.	MB Ultracentrifuge		
	Restricted Funds	354,000	
ek.	MB/GT Phospho-Imager		
	Restricted Funds	128,000	
el.	Multiphoton Imaging System		

	Restricted Funds	505,000	
em.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
en.	Multiunit Microbial Chamber		
	Restricted Funds	250,000	
eo.	NIR Spectrophotometer		
	Restricted Funds	125,000	
ep.	Open MRI Unit		
	Restricted Funds		1,000,000
eq.	Optical Disk Server		
	Restricted Funds		180,000
er.	Patient Classification Equipment		
	Restricted Funds		260,000
es.	Physiology Workstation		
	Restricted Funds	101,000	
et.	Protein Synthesizer		
	Restricted Funds		206,000
eu.	Quadrapole Mass Spectrometer		
	Restricted Funds	360,000	
ev.	Rapid Scanning Monochrometer		
	Restricted Funds		130,000
ew.	Research Grade Light Microscope		
	Restricted Funds		103,000
ex.	Scanning Electron Microscope		
	Restricted Funds	175,000	
ey.	Semi-solid Manufacturing Equipment		
	Restricted Funds		211,000
ez.	Sequence Detection System		
	Restricted Funds		100,000
fa.	Spectograph for Oligonucleotide Analysis		
	Restricted Funds	250,000	
fb.	Studio Recording Equipment		
	Restricted Funds		113,000
fc.	Telemedicine Rural Health		
	Restricted Funds		416,000
fd.	Telemedicine Systems		
	Restricted Funds		600,000
fe.	Terminal Sterilizing Autoclave		
	Restricted Funds		221,000
ff.	Ultracentrifuge		
	Restricted Funds	117,000	
fg.	Virtual Environment Simulator		
	Restricted Funds		125,000
fh.	X-Ray Defractometer		
	Federal Funds		700,000
fi.	Upgrade Scanner System		
	Restricted Funds		500,000
fj.	Upgrade HVAC II - Hospital		

	Restricted Funds	3,500,000	
fk.	Renovate Roach Building 4th Floor - Hospital		
	Restricted Funds	3,990,000	
fl.	Consolidate Imaging Services - Hospital		
	Restricted Funds		3,675,000
fm.	Construct Storage/Distribution Center - Hospital		
	Restricted Funds		1,019,000
fn.	Construct Limited-Stay Facility - Hospital		
	Restricted Funds		5,460,000
fo.	Renovate Kitchen I - Hospital		
	Restricted Funds	1,050,000	
fp.	Implement Land Use Plan III - Hospital		
	Restricted Funds	2,625,000	
fq.	Construct Parking Structure III - Hospital		
	Restricted Funds		7,350,000
fr.	Protect Environment II - Hospital		
	Restricted Funds	1,575,000	
fs.	Upgrade Transport Systems IV - Hospital		
	Restricted Funds	735,000	
ft.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,100,000	
fu.	Modify Nursing Unit XII - Hospital		
	Restricted Funds		3,500,000
fv.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	
fw.	Construct Outpatient Services III - Hospital		
	Restricted Funds	4,700,000	
fx.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds		1,000,000
fy.	Implement Land Use Plan IV - Hospital		
	Restricted Funds		2,500,000
fz.	Upgrade Transport Systems V - Hospital		
	Restricted Funds		800,000
ga.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	
gb.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,172,000	
gc.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	
gd.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds		1,500,000
ge.	Upgrade Building/Site IV - Hospital		
	Restricted Funds		800,000
gf.	Expand Parking II - Hospital		
	Restricted Funds	3,200,000	
gg.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	7,638,000	
gh.	Construct Primary Care Center II - Hospital		

	Restricted Funds		10,172,000
gi.	Construct Building Connectors III - Hospital		
	Restricted Funds	3,000,000	
gj.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital		
	Restricted Funds	12,672,000	
gk.	Construct Outpatient Care Facility II - Hospital		
	Restricted Funds		6,172,000
gl.	Upgrade Communication Services - Hospital		
	Restricted Funds		1,000,000
gm.	Construct Business Facility II - Hospital		
	Restricted Funds		9,000,000
gn.	Create Universal Nursing Unit - Hospital		
	Restricted Funds	1,000,000	
go.	Design Patient Bed Tower - Hospital		
	Restricted Funds	10,000,000	
gp.	Expand Surgical Services - Hospital		
	Restricted Funds	3,200,000	
gq.	Accelerator		
	Restricted Funds	1,600,000	
gr.	Angiography Unit		
	Restricted Funds	1,740,000	
gs.	Angiography Unit		
	Restricted Funds	1,276,000	
gt.	ATL Ultrasound		
	Restricted Funds	220,000	
gu.	Biplane Angiography		
	Restricted Funds	1,160,000	
gv.	Cardiac Catheterization Image Management System		
	Restricted Funds	957,000	
gw.	Cardiac Ultrasound		
	Restricted Funds	1,600,000	
gx.	C-Arm X-Ray Unit		
	Restricted Funds	350,000	
gy.	C-Arm X-Ray Unit		
	Restricted Funds	440,000	
gz.	C-Arm X-Ray Unit		
	Restricted Funds	275,000	
ha.	Clinical System Enterprise		
	Restricted Funds	5,800,000	
hb.	Computing Infrastructure Update		
	Restricted Funds	2,500,000	
hc.	CR PAC Server		
	Restricted Funds	275,000	
hd.	CT Scanner		
	Restricted Funds	1,914,000	
he.	CT Scanners		
	Restricted Funds	3,480,000	
hf.	CT Simulator		

	Restricted Funds	1,160,000
hg.	CT Simulator	
	Restricted Funds	1,200,000
hh.	Data Storage Facility	
	Restricted Funds	750,000
hi.	Diagnostic Radiology Unit	
	Restricted Funds	330,000
hj.	Digital Medical Record Expansion	
	Restricted Funds	4,640,000
hk.	Digital Enhancement	
	Restricted Funds	1,085,000
hl.	Digital Imaging	
	Restricted Funds	957,000
hm.	Digital Orbitor Camera	
	Restricted Funds	275,000
hn.	Digital Radiology	
	Restricted Funds	4,060,000
ho.	Digital Radiology	
	Restricted Funds	1,020,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	EKG Unit	
	Restricted Funds	440,000
hr.	Electrophysiology Lab	
	Restricted Funds	5,800,000
hs.	EMG Unit	
	Restricted Funds	250,000
ht.	Endoscopic Ultrasound	
	Restricted Funds	440,000
hu.	Endoscopic Video System	
	Restricted Funds	300,000
hv.	Endoscopic Video Ultrasound	
	Restricted Funds	275,000
hw.	Filmless System	
	Restricted Funds	150,000
hx.	Fluoroscopy Unit	
	Restricted Funds	550,000
hy.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	550,000
hz.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	500,000
ia.	Intracardiac Laser	
	Restricted Funds	500,000
ib.	Intracardiac Laser	
	Restricted Funds	550,000
ic.	Intraoperative Radiation Therapy	
	Restricted Funds	1,300,000
id.	Laboratory Analyzer	

	Restricted Funds	500,000
ie.	Linear Accelerator	
	Restricted Funds	2,050,000
if.	Managed Care Enterprise	
	Restricted Funds	1,160,000
ig.	Minimally Invasive Room	
	Restricted Funds	1,700,000
ih.	Mobile CT	
	Restricted Funds	1,100,000
ii.	Mobile CT	
	Restricted Funds	1,000,000
ij.	Mobile Fluoroscopic Unit	
	Restricted Funds	250,000
ik.	Mobile Radiology Unit	
	Restricted Funds	250,000
il.	MRI Upgrade	
	Restricted Funds	500,000
im.	Nuclear Medicine Camera	
	Restricted Funds	1,000,000
in.	OB Ultrasound	
	Restricted Funds	350,000
io.	OR Perioperative IS Document Systems Upgrade	
	Restricted Funds	150,000
ip.	Patient System Enterprise	
	Restricted Funds	4,640,000
iq.	Portal Imaging System	
	Restricted Funds	200,000
ir.	Portal Imaging System	
	Restricted Funds	250,000
is.	QuadRIS Upgrade	
	Restricted Funds	300,000
it.	Rad. Med. Software/System	
	Restricted Funds	350,000
iu.	Radiation Therapy Unit Upgrade	
	Restricted Funds	400,000
iv.	Radiographic Fluoroscopic Unit	
	Restricted Funds	200,000
iw.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ix.	Radiographic Unit	
	Restricted Funds	400,000
iy.	Radiographic Unit	
	Restricted Funds	350,000
iz.	Radiology Ultrasound	
	Restricted Funds	440,000
ja.	SPECT System	
	Restricted Funds	1,000,000
jb.	Steam Autoclave	

	Restricted Funds	450,000
jc.	Sterrad Sterilizer	
	Restricted Funds	450,000
jd.	Surgical C-Arm (ISS) System	
	Restricted Funds	650,000
je.	Surgical Laser	
	Restricted Funds	500,000
jf.	Surgical Microscope	
	Restricted Funds	500,000
jg.	Teleradiology	
	Restricted Funds	200,000
jh.	Ultrasound Image Management	
	Restricted Funds	800,000
ji.	Upgrade - HIS Computing Facility	
	Restricted Funds	2,900,000
jj.	Upgrade for Servers	
	Restricted Funds	800,000
jk.	Vascular Ultrasound	
	Restricted Funds	300,000
jl.	Vascular Ultrasound	
	Restricted Funds	900,000
jm.	Washer	
	Restricted Funds	350,000
jn.	Various Buildings (Guaranteed Energy Savings Project)	
jo.	Center for Rural Health	
	Reauthorization ($10,100,000 - Bond Funds)	
	Federal Funds - Additional	2,000,000
jp.	College of Medicine - Lease	
jq.	Medical Center Contract Sponsored Programs - Lease	
jr.	Medical Center Patient Facility - Lease	
js.	Medical Center Research Grants Projects - Lease	
jt.	Pharmacy Contracted Programs - Lease	
ju.	Center for Rural Health - Lease	
jv.	Kentucky Utilities Building - Lease	
jw.	Agricultural Plant Science Facility	
	Reauthorization	
	Restricted Funds - Additional	1,300,000
jx.	Business and Economic Complex	
	Restricted Funds	1,000,000
jy.	Student Housing Apartment Complex - Lease Purchase	
	Restricted Funds	13,000,000
jz.	Enterprise Resource Planning System - Lease Purchase	
	Restricted Funds	30,000,000
ka.	UK/UL/Frankfort Research Planning System - Lease-Purchase	
	Restricted Funds	6,000,000
kc.	University Housing - Lease	
	Restricted Funds	1,650,000

	kd.	Center for Pharmaceutical and Science Technology	
		Restricted Funds	14,000,000
9.	University of Louisville		
	a.	Expand - Research Resources Center	
		Restricted Funds	2,596,000
		Other Funds	7,787,000
		TOTAL	10,383,000
	b.	Property Acquisition	
		Restricted Funds	1,300,000
	c.	Construct - Boathouse for Women's Rowing	
		Other Funds	2,488,000
	d.	Field Turf - Practice Field Facility	
		Other Funds	750,000
	e.	Expand-Oppenheimer Hall for Social Work	
		Other Funds	5,450,000
	f.	Expand - Cardinal Arena in Student Activities Center	
		Other Funds	4,000,000
	g.	Renovate - Dental Clinic and Sterilization	
		Other Funds	3,637,000
	h.	Renovate - K-Wing 2nd and 4th Floors	
		Restricted Funds	1,040,000
	i.	Expand - Ekstrom Library - New Wing	
		Federal Funds	14,000,000
	j.	Construct - Residence Hall - 400 Beds, Phase I	
		Other Funds	19,718,000
	k.	Parking Spaces - Health Sciences	
		Restricted Funds	825,000
	l.	Renovate - MDR Building, Phase IV	
		Restricted Funds	2,530,000
	m.	Renovate - Stoddard Johnston - Married Students	
		Other Funds	5,829,000
	n.	Plasmon Resonance Instrument	
		Restricted Funds	250,000
	o.	High Resolution Mass Spectrometer	
		Federal Funds	1,150,000
	p.	Flow Fluorescence Activated Cell	
		Restricted Funds	130,000
	q.	Microcalorimeter	
		Restricted Funds	140,000
	r.	Confocal Microscope	
		Restricted Funds	280,000
	s.	Neuro Scan ESI - 128:128 Channel	
		Restricted Funds	100,000
		Federal Funds	40,000
		TOTAL	140,000
	t.	Laser Microfabrication Lab	
		Restricted Funds	275,000
		Federal Funds	250,000

	TOTAL	525,000
u.	X-Ray Diffraction Module	
	Restricted Funds	500,000
	Federal Funds	250,000
	TOTAL	750,000
v.	Particle Imaging Velocimetry (PIV)	
	Restricted Funds	167,000
w.	Confocal Laser Scanning Microscope	
	Restricted Funds	400,000
x.	CNC Grinding Machine	
	Restricted Funds	164,000
y.	Load Application System	
	Restricted Funds	240,000
z.	Axis (5) CNC Machining	
	Restricted Funds	150,000
aa.	Color Digital Output Engine	
	Restricted Funds	700,000
ab.	High Volume Output Devices Duplicator	
	Restricted Funds	876,000
ac.	High Speed Graphics Imaging System	
	Restricted Funds	200,000
ad.	Digital Communication Network	
	Restricted Funds	2,000,000
ae.	Network Switching System	
	Restricted Funds	2,000,000
af.	Electronic Research Information System	
	Restricted Funds	2,000,000
ag.	Computer Workstations for Libraries	
	Restricted Funds	466,000
ah.	High Availability Enterprise System	
	Restricted Funds	1,430,000
ai.	Client Server System - File Server	
	Restricted Funds	1,100,000
aj.	Computer Processing System	
	Restricted Funds	2,000,000
ak.	Engineering Scientific Processor	
	Restricted Funds	1,100,000
al.	Supercomputing System	
	Restricted Funds	1,500,000
am.	Upgrade Supercomputer	
	Restricted Funds	400,000
an.	Autonomous Mobility Platform	
	Restricted Funds	400,000
	Federal Funds	60,000
	TOTAL	460,000
ao.	Concave Reality Unit	
	Restricted Funds	250,000
ap.	High Energy Physics Data Analysis	

	Restricted Funds	175,000
	Federal Funds	175,000
	TOTAL	350,000
aq.	Gel Blot Image Analysis System	
	Restricted Funds	145,000
ar.	High Resolution Hybrid Mass Spectrometer	
	Restricted Funds	500,000
	Federal Funds	100,000
	TOTAL	600,000
as.	Digital Micro-Luminography System	
	Restricted Funds	120,000
at.	Electronic Darkroom	
	Restricted Funds	193,000
au.	Laser Desorption/Ionization Mass Spectrometer	
	Restricted Funds	200,000
av.	Molecular Tagging Velocimetry	
	Restricted Funds	245,000
aw.	Peak 3D Equipment	
	Restricted Funds	120,000
ax.	Deposition Attachment - UHV Facility	
	Restricted Funds	500,000
ay.	Electric Injection Molding Machine	
	Restricted Funds	110,000
az.	Materials Testing System	
	Restricted Funds	218,000
ba.	Specialized Central Processing Unit	
	Restricted Funds	500,000
bb.	Protein Chip Analyzer	
	Restricted Funds	200,000
bc.	Nucleic Acid Microchip Analyzer	
	Restricted Funds	200,000
bd.	Analytical Ultracentrifuge	
	Restricted Funds	145,000
be.	High Resolution SEM	
	Restricted Funds	360,000
bf.	Intermediate Voltage Transmission Electronmicroscope	
	Restricted Funds	550,000
bg.	Micro-Computed Tomography Imager	
	Restricted Funds	480,000
bh.	Automated Synthesizer	
	Restricted Funds	95,000
	Federal Funds	95,000
	TOTAL	190,000
bi.	EPR Spectrometer Update	
	Restricted Funds	60,000
	Federal Funds	65,000
	TOTAL	125,000

bj.	Virtual Reality Display System	
	Restricted Funds	90,000
	Federal Funds	90,000
	TOTAL	180,000
bk.	Various Buildings	
	(Guaranteed Energy Savings Project)	
bl.	Cardinal Park - Natatorium	
	Restricted Funds	7,335,000
	Other Funds	12,489,000
	TOTAL	19,824,000
bm.	Expand HSC Parking Garage - Two Additional Floors	
	Restricted Funds	4,794,000
bn.	Baseball Stadium	
	Other Funds	5,900,000
bo.	Cardinals' Nest - Housing	
	Other Funds	6,500,000
bp.	Land Purchase and Construction of Floyd Street Parking Lot	
	Other Funds	2,290,000
bq.	UL and UK Fiber Optics Purchase	
	Restricted Funds	4,650,000
br.	Biomedical Research Building - Phase III Planning	
	Restricted Funds	4,835,100
10.	Western Kentucky University	
a.	Various Buildings	
	(Guaranteed Energy Savings Project)	
b.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	10,000,000
c.	Electrical Distribution Phase IV and V Renovation	
	Restricted Funds	4,284,000
d.	Digital Television Transmission System	
	Restricted Funds	1,993,000
	Federal Funds	1,328,000
	TOTAL	3,321,000
e.	Renovate/Construct Telephone Infrastructure	
	Restricted Funds	3,000,000
f.	Van Meter Hall Renovation - Design	
	Restricted Funds	688,000
g.	Central Heat Plant Renovation - Phase I	
	Restricted Funds	1,273,000
h.	Garrett Conference Center Renovation - Design	
	Restricted Funds	858,000
i.	Server	
	Restricted Funds	880,000
j.	Video Server	
	Restricted Funds	800,000
k.	Downing University Center Renovation	
	Restricted Funds	11,320,000
l.	Land Acquisition	

Restricted Funds	400,000	
11. Kentucky Community and Technical College System		
a. KCTCS System Office - Lease-Purchase with the City of Versailles		
b. Capital Renewal and Deferred Maintenance Pool		
Restricted Funds	13,444,000	
c. Upgrade for ADA/Fire Safety - Somerset Community College		
Restricted Funds	4,585,000	
d. Master Plan Development and Upgrade Pool		
Restricted Funds	650,000	
e. HVAC System Renovation - Daviess Co. Campus		
Restricted Funds	2,440,000	
f. Install FiberOptics, Allied Health Building		
Restricted Funds	558,000	
g. Campus HVAC System Renovation - Somerset Community College		
Restricted Funds	2,173,000	
h. Replace HVAC System, 77 Addit, Laurel TC		
Restricted Funds	1,280,000	
i. Enclose Courtyard/Roof - Falkenstine Hall		
Restricted Funds	1,359,000	
j. Computer Interfaced Distillation Column		
Restricted Funds	114,000	
k. Helicopter for Aircraft Tech Program - JTC		
Restricted Funds	271,000	
l. New Telephone System Owensboro - CC & TC		
Restricted Funds	340,000	
m. Multi-engine Turbine Power Aircraft		
Restricted Funds	300,000	
n. Diagnostic Medical Sonography Unit		
Restricted Funds	110,000	
o. Various Buildings (Guaranteed Energy Savings Project)		
p. Henderson Community College - Lease		
q. Jefferson Community College - Lease		

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
1. Housing, Buildings and Construction		
a. Franklin County - Lease		
2. Department of Insurance		
a. Franklin County - Lease		
3. Public Advocacy		
a. Franklin County - Lease		

N. REVENUE

Budget Unit	2002-03	2003-04
1. Office of the Secretary		
a. Franklin County - Lease		
b. Franklin County - Lease		
c. Franklin County - Lease		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04
The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.		
1. Department of Parks		
a. Improve Water System - Natural Bridge		
Emergency Repair, Maintenance, and Replacement Fund		500,000
b. Maintenance Pool		
Investment Income	3,438,400	3,435,700
c. Campground Electrical/Life Safety Upgrade and Reconstruction		
Investment Income		2,100,000
d. Construct Wave Barrier - Jenny Wiley		
Reauthorization		
e. Kincaid Lake Golf Course		
Reauthorization		
f. Ben Hawes State Park Project/Various Improvements		
Reauthorization and Reallocation		
2. Kentucky Horse Park		
a. Maintenance Pool		
Investment Income	441,400	441,400
b. Painting, Fencing, and Infrastructure Repair		
Investment Income	225,000	
c. Design and Infrastructure of a New Indoor Arena and Campground Expansion		
General Fund		400,000
3. Kentucky State Fair Board		
a. Purchase DOT Building		
Bond Funds	500,000	
b. Replace Roofs		
Bond Funds	2,800,000	
c. Maintenance Pool		
Restricted Funds	1,500,000	1,500,000
d. Teleconference Center - KICC		
Reauthorization and Reallocation (250,000 - Restricted Funds)		

The above Restricted Funds, as appropriated in accordance with 2000 Ky. Acts ch. 549, Part II, O. Tourism Development Cabinet, 2. Kentucky State Fair Board, c. Freedom Hall-Portable Trailers, are reauthorized and reallocated to provide for the completion of the Kentucky International Convention Center Teleconferencing Center.

4. Department of Fish and Wildlife Resources		
a. Land Acquisition Pool		
Restricted Funds	500,000	500,000
b. Maintenance Pool		
Restricted Funds	300,000	300,000

P. TRANSPORTATION CABINET

Budget Unit	2002-03	2003-04
1. Highways		
a. TRNSPRT System		
Road Fund	3,500,000	
b. Statewide Transportation Operations Center		
Federal Funds		5,680,000

Road Fund		1,420,000
TOTAL		7,100,000
2. General Administration and Support		
a. Construct Martin County Maintenance Facility and Salt Dome		
Road Fund		845,000
b. Replace HVAC System - Franklin County Materials Lab		
Road Fund		600,000
c. Construct and Repair Various Salt Storage Structures		
Road Fund		813,000
d. Asbestos Survey/Abatement/Air Monitoring		
Road Fund		100,000
e. Building Renovation and Emergency Repairs		
Road Fund	840,000	
f. Conduct Paving and Landscaping		
Road Fund		600,000
g. Wastewater Treatment/Water Projects		
Road Fund		200,000
h. HVAC Maintenance and Repair		
Road Fund		800,000
i. Hydraulic Hoists-Heavy Equipment		
Road Fund		300,000
j. Purchase of High Speed Duplicators (Two)		
Road Fund		600,000
k. Purchase Electrical Digital Surveying System		
Road Fund		150,000
l. Purchase Concrete and Geotech Testing System		
Road Fund		146,000
m. Purchase of Core Drill		
Road Fund		210,000
n. Various Parks Roads		
Road Fund	1,500,000	1,500,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Program Support		
a. Implement Guaranteed Energy Savings (Guaranteed Energy Performance Contract)		
b. Implement ADA Barrier Removal Pool		
Investment Income	125,000	
c. Maintenance Pool		
Investment Income	395,000	394,600
2. Vocational Rehabilitation		
a. Construct New Sewage Treatment Plant-Perkins Rehabilitation Center		
Bond Funds	265,000	
b. Franklin County - Lease		
c. Fayette County - Lease		
3. Employment Services		
a. DES Facility Renovation Pool		
Reauthorization		

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients; and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

R. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 or General Fund supported Bond Funds for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 and fiscal year 2003-2004 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

Notwithstanding KRS 42.4592, funds from each single county fund that equals the amount of Bond Funds for the respective county shall be deposited to the General Fund in fiscal year 2003-2004. The Coal Severance Tax Projects Bonds shall not be issued prior to September 1, 2003. The Bond Funds totaling $10,602,992 are supported with General Fund debt service of $980,000 which is included in the Finance and Administration Cabinet Debt Service appropriation.

(1) GOVERNMENT OPERATIONS

a.	Budget Unit Local Government	2002-03	2003-04
Bell County			
1.	Bell County - Middlesboro Airport - Operations		
	Restricted	50,000	
2.	Bell County - Middlesboro History Museum - Operations		
	Restricted	7,500	2,500
3.	Bell County - Middlesboro Rescue Squad - Operations		
	Restricted	12,500	6,250
4.	Bell County Animal Shelter - Improvements		
	Restricted	5,000	
5.	Bell County Fiscal Court - Ambulance and Equipment		
	Restricted	75,000	
6.	Bell County Fiscal Court - Bell County 4-H Club - Operations		
	Restricted		1,000
7.	Bell County Fiscal Court - Bell County Animal Shelter - Operations or Repairs		
	Restricted		5,000
8.	Bell County Fiscal Court - Frakes Senior Citizens - Operations		
	Restricted		5,000
9.	Bell County Fiscal Court - Middlesboro Fire Department - Equipment		
	Restricted		15,000
10.	Bell County Fiscal Court - Middlesboro Little League - Operations		
	Restricted		7,500
11.	Bell County Fiscal Court - Red Bird Senior Citizens - Operations		
	Restricted		2,500
12.	Bell County Fiscal Court - Water and/or Various Projects		
	Bond Fund		1,000,000
13.	Bell County Fiscal Court - Water Project - Wx2101 3907 Earmarked		

		Restricted	280,000	
	14.	Bell County Health Department - Operations		
		Restricted	5,000	2,500
	15.	Bell County Interfaith - Operations		
		Restricted	5,000	2,500
	16.	Bell County Jail - Repairs		
		Restricted	50,000	
	17.	Bell County Little League - Improvements		
		Restricted	25,000	
	18.	Bell County Public Library - Operations		
		Restricted	5,000	2,500
	19.	Bell County Schools - Divided Evenly Among Each Site Based Council		
		Restricted	25,000	
	20.	Bell County Senior Citizens - For Their Share of Pineville City School Wellness Center		
		Restricted	50,000	
	21.	Bell County Senior Citizens - Operations		
		Restricted	25,000	10,000
	22.	Bell County Veterans Park - Improvements		
		Restricted	5,000	
	23.	Bell County Volunteer Fire Department		
		Restricted	25,000	
	24.	Bell County Volunteer Fire Department - Generator at Central		
		Restricted	25,000	
	25.	Bell County Volunteer Fire Department - Lone Jack Co. for Repairs		
		Restricted	25,000	
	26.	City of Middlesboro - Various Projects		
		Restricted	200,000	85,000
	27.	City of Pineville - Various Projects		
		Restricted	75,000	37,500
	28.	Frakes Volunteer Fire Department - Operations		
		Restricted	12,500	6,250
	29.	Middlesboro City Schools - Divided Evenly Among Each Site Based Council		
		Restricted	25,000	
	30.	Middlesboro Little League/Senior League - T-ball Improvements		
		Restricted	12,500	
	31.	P-38 Museum at Middlesboro - Operations		
		Restricted	150,000	
	32.	Pineville School - Divided Evenly Among Each Site Based Council		
		Restricted	25,000	
Boyd County				
	33.	Ashland Alliance - Various Economic Development Efforts and Operations		
		Restricted		10,000
	34.	Ashland Alliance - Various Economic Development Efforts and Operations		
		Restricted	10,000	
	35.	Ashland American Little League - Equipment and Facility Improvements		
		Restricted	10,000	
	36.	Boyd County AABC League - Equipment and Facility Improvements		

	Restricted	10,000	
37.	Boyd County Board of Education - Cannonsburg Elementary School - Playground Equipment and Improvements		
	Restricted	10,000	
38.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		
	Restricted	35,000	
39.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		
	Restricted		37,870
40.	Boyd County Fiscal Court - Water and Sewer Projects		
	Bond Fund		100,000
41.	Boyd County Fiscal Court - Water and Sewer Projects		
	Restricted	100,000	
42.	Boyd County National Little League - Equipment and Facility Improvements		
	Restricted	10,000	
43.	City of Ashland - Water Treatment Plant Improvements		
	Restricted	48,139	
44.	City of Catlettsburg - Downtown Development		
	Restricted	15,000	
Breathitt County			
45.	Breathitt County Water District - Water Line Extensions		
	Bond Fund		781,804
46.	Breathitt County Water District - Water Line Extensions		
	Restricted	500,000	
47.	City of Jackson - Water Treatment Plant Expansions		
	Restricted	600,000	
Butler County			
48.	GPS/GIS Mapping for 911 System		
	Restricted	114,000	
49.	Repeater System for Fire, Ambulance, Sheriff, and EMS Response		
	Restricted	15,000	
50.	Various Projects		
	Restricted		65,144
Carter County			
51.	Carter County - Fire Departments		
	Restricted		60,000
52.	Carter County Fair Board - Property Acquisition for Permanent Fair Location		
	Restricted	25,000	
53.	Carter County Fiscal Court Recreational/Park - Feasibility, Planning, Property Acquisition, or Improvements		
	Restricted	33,916	
54.	Carter County School System - Soccer Fields Property Acquisition		
	Restricted	25,000	
55.	City of Grayson - City Pool Repair and Maintenance/Operations		
	Restricted	25,000	
56.	Grahn Community Center Production Allowance		
	Restricted	10,000	
57.	Grayson Little League Grounds		

	Restricted	5,000	
58.	Grayson Utility Commission - Water Treatment Plant		
	Bond Fund		107,018
59.	Grayson Utility Commission - Water Treatment Plant		
	Restricted	50,000	
60.	Mt. Savage Furnace Historic Marker Replacement		
	Restricted	1,600	
61.	Olive Hill Little League		
	Restricted	5,000	
62.	Rattlesnake Ridge Water District - Water Line Extension		
	Restricted	150,000	
63.	Someday Outdoor Drama Production Allowance		
	Restricted	5,000	
Christian County			
64.	Christian County - Trail of Tears		
	Restricted	22,000	
65.	Christian County - Visitors Center		
	Restricted	18,000	
66.	Christian County Water District		
	Restricted	150,000	
Clay County			
67.	City of Manchester - Clay County Fiscal Court - Sewer Line and Treatment Plant Upgrade		
	Restricted	300,000	
68.	City of Manchester - County-wide Water Line Extension		
	Bond Fund		246,400
69.	City of Manchester - County-wide Water Line Extension		
	Restricted	392,894	
70.	City of Pineville - Red Bird Mission Water Line Project		
	Restricted	30,000	
71.	Fiscal Court - Purchase Vehicles for Sheriff and Jailer		
	Restricted	75,000	
72.	North Manchester Water Association Water Storage Tank		
	Restricted	230,000	
Daviess County			
73.	Daviess County - Fire Station		
	Restricted	240,000	
74.	Daviess County Parks - Equipment		
	Restricted	200,000	
75.	H.L. Neblett Center Capital Project		
	Restricted	150,000	150,000
76.	Owensboro Southwest Park Project		
	Restricted		200,000
Elliott County			
77.	City of Sandy Hook - Downtown Beautification, Parks, and Street Repairs		
	Restricted	12,000	9,000
78.	Elliott County Board of Education-Athletic Dept. - Equipment, Operations, and Improvements		

	Restricted	10,000	
79.	Elliott County Fiscal Court - County Public Library - Operations and Equipment Improvements.		
	Restricted	25,000	25,000
80.	Elliott County Fiscal Court - Elliott County Ambulance Dept. - Equipment, Improvements, and Operations.		
	Restricted	20,000	25,000
81.	Elliott County Fiscal Court - Elliott County Fire Department Construction, Equipment, and Operations		
	Restricted	40,000	35,000
82.	Elliott County Fiscal Court - Various Economic Development, Recreation, Parks, County Building Operations and Ground Improvements		
	Restricted	30,000	50,000
Floyd County			
83.	Floyd County Fiscal Court - Allen Central - Operations		
	Restricted		50,000
84.	Floyd County Fiscal Court - Betsy Layne - Operations		
	Restricted		50,000
85.	Floyd County Fiscal Court - Fire Protection		
	Restricted	100,000	
86.	Floyd County Fiscal Court - Landfill		
	Restricted		19,711
87.	Floyd County Fiscal Court - Martin City Flood Control		
	Restricted		20,000
88.	Floyd County Fiscal Court - Martin Community Center - Operations		
	Restricted		25,000
89.	Floyd County Fiscal Court - Prestonsburg Fieldhouse		
	Restricted		200,000
90.	Floyd County Fiscal Court - South Floyd		
	Restricted		25,000
91.	Floyd County Parks Improvements		
	Restricted		150,000
92.	Floyd County Senior Citizens Center - To be divided equally among the following seven centers - Wheelwright, Martin, McDowell, Betsy Layne, Mud Creek, Prestonsburg, and Wayland		
	Restricted		35,000
93.	Southern Water and Sewer District - Water Line Extensions at Beaver Creek - Water Bond Payoff		
	Restricted	491,419	
94.	Southern Water and Sewer District - Water Line Extensions in Southern Floyd County		
	Bond Fund		1,000,000
Greenup County			
95.	City of Flatwoods - Senior Citizens Center		
	Restricted	8,000	
96.	City of Greenup-Water System Phase VII Expansion Project		
	Bond Fund		99,399
97.	City of Greenup-Water System Phase VII Expansion Project		

		Restricted	14,155	
98.	City of Russell - Sewer System	Restricted	4,000	
99.	City of Worthington - City of Raceland - Water System Interconnection	Restricted	20,000	
100.	City of Worthington - Water System Interconnection	Restricted		20,000
101.	City of Wurtland - Water Storage Tank	Restricted	11,000	
102.	Greenup County - Fire Departments	Restricted	24,777	
Hancock County				
103.	Hancock County Fiscal Court - Lewisport Industrial Park Water Projects	Restricted	91,219	
Harlan County				
104.	Black Mountain Utility District - Putney - Totz/Water Line Extension	Restricted	1,250,000	
105.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant	Restricted	250,000	
106.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant	Bond Fund		275,000
107.	Bledsoe Community Center - Construction of Building	Restricted		20,000
108.	Cawood Ledford Harlan County Boys and Girls Club	Restricted		250,000
109.	City of Benham - Purchase of Equipment for Water/Sewer Service and Fire Protection	Restricted		20,000
110.	City of Cumberland - Purchase or construction of a tourism Welcome and Information Center for the Appalachian Frontier Homestead	Restricted		25,000
111.	City of Evarts - Line Extension with Black Mountain Utility District	Restricted	800,000	
112.	City of Harlan - Downtown Revitalization Program	Restricted		100,000
113.	City of Harlan - Fire Station South	Restricted	100,000	
114.	City of Harlan - Little League	Restricted	5,000	
115.	City of Harlan - Water Treatment Plant	Restricted	500,000	
116.	City of Loyall - Equipment and Repair for Fire, Police, and Sewer Departments	Restricted		91,000
117.	City of Lynch - Water Line Upgrade	Restricted	300,000	

118.	City of Lynch - Water Line Upgrade	Bond Fund		316,027
119.	City of Wallins Creek - City Equipment Purchase	Restricted		20,000
120.	Cranks Volunteer Fire Department - Start-up Expenses	Restricted		15,000
121.	Evarts Train Depot - Renovation of Building	Restricted	50,000	
122.	Fire Department Equipment - Provide $7,500 for each of the following Volunteer Fire Departments - Holmes Mill, Yocum Creek, Lower Clover Fork, Bledsoe, Putney, Wallins, Coldiron, Sunshine, Martins Fork, Evarts, Loyall, Upper Cloverfork, and Benham	Restricted		91,000
123.	Green Hills Water District - Water Line to Little Shepard Trail	Bond Fund		125,000
124.	Green Hills Water District - Water Line to Little Shepard Trail	Restricted	35,500	
125.	Green Hills Water District - Water Tank Construction	Restricted	125,000	
126.	Harlan County Fiscal Court - Cloverfork Rescue Squad, Building Construction	Restricted		50,000
127.	Harlan County Fiscal Court - Provides $5,000 for each of the following rescue squads - Harlan and Tri-County	Restricted		10,000
128.	Harlan County Fiscal Court - Southeast Community College - Paramedic Training	Restricted	50,000	50,000
129.	Harlan County PVA - Digital/Mapping	Restricted	35,000	
130.	Harlan County/Tri-Cities - Coordination for Community Development	Restricted	35,000	35,000
131.	Southeast Community College Foundation - Mine Museum, Golf Course, and Mine Tour	Restricted	250,000	250,000
132.	Southeast Community College Foundation - Underground Mine Tour	Restricted	500,000	
133.	The Laurels, Inc. - Renovation	Restricted		40,000
Henderson County				
134.	Henderson County Water District - Fulton-Yates/Mt. Zion Church Road Loop Water Line	Restricted	125,000	
135.	Henderson County Water District - Posey-Ball Road Water Line	Restricted	121,381	
136.	Henderson County Water District - Tank Repair	Restricted	350,000	
137.	Henderson County Water District - Various Extensions			

	Restricted	230,000	
138.	Henderson County Water District - Water Line Extension to Kings Mill Road, Birk City Road, and Green River Road		
	Restricted	86,355	
139.	Henderson Water Utility - Interconnection with Evansville Water		
	Restricted	100,000	
Hopkins County			
140.	Adult Education Initiative		
	Restricted	100,000	100,000
141.	Hopkins County Fiscal Court - Economic Development - Spec Building		
	Restricted		400,000
142.	Hopkins County Fiscal Court - Economic Development Projects		
	Restricted		900,000
143.	Hopkins County Fiscal Court - Water Projects		
	Bond Fund		500,000
144.	Hopkins County Land Acquisition -Economic Development		
	Restricted	1,000,000	500,000
145.	Hopkins Volunteer Fire Departments - ($10,000 each to Anton, Charleston, Dawson Springs, Earlington, Grapevine, Hanson, Manitou, Mortons Gap, Nebo, Nortonville, Richland, St. Charles, South Hopkins, and White Plains for Purchase of Fire Fighting Equipment		
	Restricted	140,000	
Jackson County			
146.	Jackson County Fiscal Court - Buncomb Road Water Line		
	Restricted	146,242	
147.	Jackson County Water Association - Water Supply Lake		
	Bond Fund		88,256
148.	Jackson County Water Association - Water Supply Lake		
	Restricted	100,000	
Johnson County			
149.	City of Paintsville - Business/Technical/Incubator		
	Restricted	300,000	
150.	Johnson County Fiscal Court - Fire Departments		
	Restricted	35,000	35,000
151.	Paintsville Utility Commission - Extensions in Scattered Locations		
	Restricted	344,701	
152.	Paintsville Utility Commission - Extensions in Scattered Locations		
	Bond Fund		268,734
153.	Paintsville Utility Commission - New Water Treatment Plant		
	Restricted	20,757	
Knott County			
154.	Kentucky School of Craft - KCTCS - Operating		
	Restricted		500,000
155.	Knott County Artisans Center - Construction		
	Restricted	835,987	800,000
156.	Knott County Fiscal Court - Beaver Park Expansions		
	Restricted	100,000	
157.	Knott County Fiscal Court - Fire Departments		

	Restricted	100,000	50,000
158.	Knott County Fiscal Court - Jail		
	Restricted	600,000	600,000
159.	Knott County Fiscal Court - Youth Development Center		
	Restricted	100,000	
160.	Knott County/City of Hazard -Water Line Extension		
	Restricted	661,746	
161.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Restricted	3,348,903	
162.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Bond Fund		674,090
Knox County			
163.	Barbourville Utility Commission - Middlefork and Right Baker Hollow Water Lines		
	Restricted		45,000
164.	Barbourville Utility Commission - Water Tank and Pump Station HWY 229		
	Restricted	175,000	
165.	Cranes Nest Waterlines		
	Bond Fund		5,000
166.	Knox County Fiscal Court - Bennett Branch Water Lines		
	Bond Fund		5,000
167.	Knox County Fiscal Court - Big Creek Water Tank - HWY 718		
	Bond Fund		100,000
168.	Knox County Fiscal Court - Brices Creek Waterlines		
	Bond Fund		5,000
169.	Knox County Fiscal Court - Coles Branch Waterlines		
	Bond Fund		8,000
170.	Knox County Fiscal Court - Don Mills Road Waterlines		
	Bond Fund		2,000
171.	Knox County Fiscal Court - Dora Clark Branch Waterlines		
	Bond Fund		8,000
172.	Knox County Fiscal Court - Dowis Chappel Oak Ridge Road Water Lines		
	Bond Fund		15,000
173.	Knox County Fiscal Court - George Tye Road Water Lines		
	Bond Fund		5,000
174.	Knox County Fiscal Court - Goodin Creek Water Lines		
	Bond Fund		5,000
175.	Knox County Fiscal Court - Hinkel Branch Waterlines		
	Bond Fund		2,000
176.	Knox County Fiscal Court - Houston Broughton Road Waterlines		
	Bond Fund		8,000
177.	Knox County Fiscal Court - Left Fork Miller Hollow Water Lines		
	Bond Fund		1,000
178.	Knox County Fiscal Court - Mills Creek Waterlines		
	Bond Fund		8,000
179.	Knox County Fiscal Court - Right Fork Miller Hollow Water Lines		

	Bond Fund		1,000
180.	Knox County Fiscal Court - Rob Smith Road Waterlines		
	Bond Fund		2,000
181.	Knox County Fiscal Court - Salt Gum Waterlines		
	Bond Fund		8,000
182.	Knox County Fiscal Court - Turkey Fork Waterlines		
	Bond Fund		8,000
183.	Southeast Ky. Rehabilitation Industries (SEKRI) - Renovation of Warner Building		
	Restricted	330,189	
Laurel County			
184.	Wood Creek Water District - Water Tank and Pump Station		
	Bond Fund		111,800
185.	Wood Creek Water District - Water Tank and Pump Station		
	Restricted	105,943	
Lawrence County			
186.	Big Sandy Water District - Interconnection		
	Bond Fund		196,540
187.	City of Louisa Water Project - Water System Improvements		
	Restricted	391,520	
188.	Lawrence County Board of Education - Community Wellness Center		
	Restricted	50,000	50,000
189.	Lawrence County Fiscal Court - Community Center		
	Restricted	200,000	
190.	Lawrence County Volunteer Fire Departments		
	Restricted	10,078	45,922
Lee County			
191.	City of Beattyville - Water Line Extension		
	Restricted	669,775	
192.	Lee County Fiscal Court - Library Renovation at Old Jail		
	Restricted	150,000	
193.	Lee County Fiscal Court - Renovate Ambulance Building		
	Restricted		50,000
194.	Lee County Fiscal Court - Sewer Expansion to Happy Top		
	Restricted		50,000
195.	Lee County Fiscal Court - Various Community Development Programs		
	Restricted		200,000
Leslie County			
196.	Leslie County - Campus of Hazard Community College		
	Restricted		500,000
197.	Leslie County Fiscal Court - Coon Creek Fire Department		
	Restricted		10,000
198.	Leslie County Fiscal Court - Cutshin Fire Department		
	Restricted		10,000
199.	Leslie County Fiscal Court - E911 Equipment and Operations		
	Restricted		500,000
200.	Leslie County Fiscal Court - Funds to be divided equally among six local Volunteer Fire Departments		

	Restricted	150,000	
201.	Leslie County Fiscal Court - George Wooten Park		
	Restricted		5,000
202.	Leslie County Fiscal Court - Greasy Creek Park		
	Restricted		5,000
203.	Leslie County Fiscal Court - Grover Sizemore Park		
	Restricted		5,000
204.	Leslie County Fiscal Court - Hyden Fire Department		
	Restricted		10,000
205.	Leslie County Fiscal Court - Jail Improvements		
	Restricted		250,000
206.	Leslie County Fiscal Court - Leslie County Little League		
	Restricted		20,000
207.	Leslie County Fiscal Court - Pines Park		
	Restricted		5,000
208.	Leslie County Fiscal Court - Stinnett Area Community Center		
	Restricted		450,000
209.	Leslie County Fiscal Court - Stinnett Fire Department		
	Restricted		10,000
210.	Leslie County Fiscal Court - Thousandsticks Fire Department		
	Restricted		10,000
211.	Leslie County Fiscal Court - Transportation Improvements		
	Restricted		286,000
212.	Leslie County Fiscal Court - Wooton Fire Department		
	Restricted		10,000
213.	Leslie County Water District - Water Line Extension		
	Restricted	650,000	
214.	Leslie County Water District - Water Line Extension		
	Restricted	659,933	
215.	Leslie County Water District - Water Line Extension		
	Restricted	250,000	
216.	Leslie County Water District - Water Line Extension		
	Restricted	500,000	
217.	Leslie County Water District - Water Line Extension		
	Restricted	350,000	
218.	Leslie County Water District - Water Line Extension and System Telemetry		
	Restricted	1,030,000	
Letcher County			
219.	City of Fleming-Neon - Water Line Extension		
	Restricted	590,000	
220.	City of Jenkins - City Hall Expansion		
	Restricted	85,346	74,654
221.	City of Jenkins - Downtown Revitalization		
	Restricted		120,000
222.	City of Jenkins - Mountain Water District - Water Line Extension		
	Restricted	450,000	
223.	City of Jenkins - Water Line Extension		
	Restricted	223,466	

224.	Letcher County - Provide funds to be shared equally among 10 Volunteer Fire Departments		
	Restricted	200,000	
225.	Letcher County Board of Education - Central High School Project		
	Restricted	200,000	
226.	Letcher County Board of Education - Fleming - Neon High School		
	Restricted	100,000	
227.	Letcher County Domestic Violence Council		
	Restricted	100,000	
228.	Letcher County Expansion of Senior Citizens Centers		
	Restricted		100,000
229.	Letcher County Fiscal Court - Eola Recreation Center		
	Restricted	15,000	
230.	Letcher County Fiscal Court - Esta Craft Conway Spouse Abuse Center in Whitesburg		
	Restricted		50,000
231.	Letcher County Fiscal Court - Landfill Closure		
	Restricted		500,000
232.	Letcher County Fiscal Court - Letcher County Medical Evacuation Helicopter / Office and Dorm at Whitesburg Appalachian Regional Hospital.		
	Restricted	250,000	
233.	Letcher County Fiscal Court - Whitesburg Recreation Center		
	Restricted	35,000	
234.	Letcher County Fiscal Court - Whitesburg Water Line Extension to Dry Fork and Uz		
	Restricted	160,000	
235.	Letcher County Parks and Recreation - Jenkins Baseball Park		
	Restricted	100,000	
236.	Letcher County Parks and Recreation - Various Parks in Letcher County		
	Restricted	20,000	
237.	Letcher County Water and Sewer District -Water Line Extension (Routes 7 and 317)		
	Bond Fund		331,214
238.	Letcher County Water and Sewer District -Water Line Extension (Routes 7 and 317)		
	Restricted	1,970,073	
239.	New Fire Department Headquarters -Jenkins		
	Restricted		30,000
Magoffin County			
240.	Magoffin County Fiscal Court - Administrative Office Building		
	Restricted	600,000	
241.	Magoffin County Fiscal Court - Fire Departments		
	Restricted	100,000	
242.	Magoffin County Rescue For Purchase of Truck		
	Restricted	50,000	
243.	Magoffin County Water District - Paintsville New Treatment Plant		
	Restricted	812,046	
244.	Magoffin County Water District - Paintsville New Treatment Plant		

	Bond Fund		187,954
245.	Magoffin County Water District - Water Line Extensions		
	Restricted	405,000	
246.	Royallton Fire Department		
	Restricted	10,000	
247.	Salyersville Fire Department		
	Restricted	10,000	
Martin County			
248.	City of Warfield - Community Center		
	Restricted	25,000	
249.	Martin County Fiscal Court - Fire Department/Rescue Squad - Equipment and Fire House Improvements		
	Restricted	75,000	
250.	Martin County Fiscal Court - Martin County Health Care Clinic		
	Restricted		400,000
251.	Martin County Senior Citizens Center - Equipment		
	Restricted	20,000	
252.	Martin County Sheriff's Office - Equipment		
	Restricted	22,000	
253.	Martin County Volunteer Fire Departments		
	Restricted	28,000	
254.	Martin County Water District - Eastern Area Water Line Extensions		
	Restricted	470,034	
255.	Martin County Water District - Side Hollow Water Line Extensions		
	Restricted	1,033,289	
256.	Martin County Water District - Upgrade/Expansion Water Treatment Plant		
	Restricted	3,122,831	
257.	Martin Fiscal Court - Emergency Management - Enhanced 911/GIS		
	Restricted	100,000	
258.	Roy F. Collier Community Center - Furnishings and Equipment		
	Restricted	500,000	
McCreary County			
259.	McCreary County Water District - Water Line Extensions		
	Restricted	403,981	
260.	McCreary County Water District - Water Line Extensions		
	Bond Fund		46,019
McLean County			
261.	McLean County Fiscal Court - City of Island Water Department - Debt Service on 10" Line		
	Restricted	70,000	
262.	McLean County Fiscal Court - City of Sacramento - Water System Improvements		
	Bond Fund		50,000
263.	McLean County Fiscal Court - Extension of Water Lines at Pone River		
	Bond Fund		30,000
264.	McLean County Fiscal Court - Extension of Water Lines at Pone River		
	Restricted	20,000	
265.	McLean County Fiscal Court - Fire Departments		

	Restricted	80,000	
266.	McLean County Fiscal Court - Fire/Rescue Equipment or Vehicle		
	Restricted		50,000
267.	McLean County Fiscal Court - High Speed Data/E-Government		
	Restricted	30,000	
268.	McLean County Fiscal Court - Rumsey Sewer		
	Bond Fund		50,000
269.	McLean County Fiscal Court - Rumsey Sewer		
	Restricted	200,000	
270.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Bond Fund		60,000
271.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Restricted	60,000	
Menifee County			
272.	Cave Run Water Commission - Water Plant		
	Restricted	237,702	
273.	Menifee County Youth Center		
	Restricted	50,000	
274.	Menifee Fire Departments		
	Restricted	40,000	
275.	Walking Trail Park		
	Restricted	40,000	
Morgan County			
276.	Morgan County Fiscal Court - ($10,000 Grant to Each of the Six Local Volunteer Fire Departments)		
	Restricted	60,000	
277.	Morgan County Fiscal Court - Development of Park at the Mouth of Caney Creek		
	Restricted	50,000	
278.	Morgan County Fiscal Court - Industrial Road Development - Spec Building Construction and Industrial Site Development		
	Restricted	750,000	
279.	Morgan County Fiscal Court - Morgan County Memory Hill		
	Restricted	10,000	
Muhlenberg County			
280.	Muhlenberg County Fiscal Court - Adult Education Initiative		
	Restricted	100,000	
281.	Muhlenberg County Fiscal Court Purchase Eight Thermal Imaging Devices, One for Each Fire Department (Central City, Bremen, Graham, Greenville, Dunmore, Beechmont, Drakesboro, and Nelson)		
	Restricted	80,000	
Ohio County			
282.	Ohio County Fiscal Court - Bluegrass Memorial/Music		
	Restricted	234,517	64,640
283.	Ohio County Water District - Transmission Main		
	Restricted	232,260	
284.	Ohio County Water District - Transmission Main		

	Bond Fund		232,260
Owsley County			
285.	Owsley County Fiscal Court - Booneville Volunteer Fire Department - Fire Truck		
	Restricted	50,000	
286.	Owsley County Fiscal Court - Economic Development Initiatives		
	Restricted		150,000
287.	Owsley County Fiscal Court - Vincent/Island City Volunteer Fire Department		
	Restricted	50,000	
Perry County			
288.	City of Hazard - Robinson - Rowdy Water Line		
	Restricted	1,099,134	
289.	City of Hazard - South Perry County Water Line		
	Restricted	769,702	
290.	City of Hazard - South Perry County Water Line		
	Bond Fund		1,280,800
291.	Hazard Community College		
	Restricted	88,605	
Pike County			
292.	Breaks Interstate Park - Improvement Project		
	Restricted		1,000,000
293.	City of Elkhorn City - Water Line Extension		
	Bond Fund		363,204
294.	City of Pikeville - Underground Utilities		
	Restricted	1,000,000	
295.	East Kentucky Exposition Center - Facility Construction		
	Restricted	2,000,000	
296.	East Kentucky Exposition Center - Operations		
	Restricted	150,000	250,000
297.	Elkhorn City - Construction of Fair Grounds		
	Restricted	50,000	
298.	Fishtrap State Park - Expansion Project		
	Restricted	431,226	1,228,774
299.	Mountain Water District - Chloe - Shelbianna Connector		
	Restricted	197,000	
300.	Mountain Water District - Feds Creek Extension		
	Restricted	911,747	
301.	Mountain Water District - Fords Mountain Connector		
	Bond Fund		366,000
302.	Mountain Water District - Lower Shelby Valley Sewer Project		
	Restricted	800,000	
303.	Mountain Water District - Phelps Water Line Extensions		
	Restricted	151,000	
304.	Pike County Fiscal Court - Blackberry Senior Citizens Center		
	Restricted	100,000	
305.	Pike County Fiscal Court - Chisholm Park Project Feasibility Study		
	Restricted	100,000	100,000
306.	Pike County Fiscal Court - City of Phelps - Phelps area Habitat for Humanity		

	Restricted		100,000
307.	Pike County Fiscal Court - Construction of New Fire Station at Island Creek		
	Restricted	50,000	
308.	Pike County Fiscal Court - Construction of New Fire Station at Virgie		
	Restricted	50,000	
309.	Pike County Fiscal Court - Construction on Feds Creek Fire Department		
	Restricted		50,000
310.	Pike County Fiscal Court - Dorton Community Park		
	Restricted	50,000	
311.	Pike County Fiscal Court - Drug Rehabilitation Center Feasibility Study		
	Restricted	50,000	
312.	Pike County Fiscal Court - Elkhorn City Heritage County Operations and Project Development - Black Gem Park - Belfry		
	Restricted	10,000	30,000
313.	Pike County Fiscal Court - For Hope, Inc. - to be divided equally among three Centers		
	Restricted	60,000	
314.	Pike County Fiscal Court - Freeburn Park Project		
	Restricted	50,000	
315.	Pike County Fiscal Court - Hope Incorporated - Phelps - for new vehicle purchase.		
	Restricted		60,000
316.	Pike County Fiscal Court - KY Appalachian Center Project		
	Restricted	50,000	
317.	Pike County Fiscal Court - Long Fork Community Park at Virgie, KY		
	Restricted	50,000	
318.	Pike County Fiscal Court - Majestic Community Park		
	Restricted	25,000	
319.	Pike County Fiscal Court - Mountain Water District - 50 New Fire Hydrants		
	Restricted	81,500	
320.	Pike County Fiscal Court - To be divided equally among all Pike County Fire Departments		
	Restricted	100,000	
321.	Pike County Fiscal Court - To be divided equally among all Senior Citizens Centers		
	Restricted	100,000	
322.	Pikeville Water Department - Water Treatment Improvements		
	Restricted	174,000	
Union County			
323.	City of Morganfield - Raw Water Main		
	Restricted	1,000,000	
324.	Union County - City of Morganfield - Morganfield Pedestrian Destination: Land Acquisition, Site Development, and Professional Services		
	Restricted	371,500	
325.	Union County - City of Sturgis - Purchase Property and Building, Renovation, and Construction		
	Restricted	100,000	
326.	Union County - Flood Plain Study		
	Restricted	60,000	
327.	Union County Fiscal Court - Sewer Line		

	Bond Fund		1,000,000
328.	Union County Water District - Water Line Extension		
	Restricted	50,000	
329.	Uniontown Sewer Facility		
	Restricted	150,000	
Webster County			
330.	Sebree South Industrial Park - Sewer Line Extension		
	Restricted	800,000	
331.	Webster County Water District - Water Line Extensions		
	Restricted	600,000	
332.	Webster County Water District - Water Tank		
	Restricted	500,000	
Whitley County			
333.	City of Corbin - Incline Road Water Line Extension		
	Restricted	179,098	
334.	Whitley County Fiscal Court - Animal Shelter		
	Restricted	50,000	
335.	Whitley County Fiscal Court - County Water Line Extensions		
	Bond Fund		221,800
336.	Whitley County Fiscal Court - Trenching and Sewer Cleaning Machines		
	Bond Fund		80,000
337.	Whitley County Library Board - Book Refurbishing and Replacement		
	Restricted	50,000	
338.	Whitley County Senior Citizens Center		
	Restricted	96,000	
339.	Whitley County Water District - Nevisdale Water Line Extensions		
	Restricted	170,730	
Wolfe County			
340.	City of Campton - Water Line Extension		
	Bond Fund		217,673
341.	Hazel Green Fire Truck Purchase		
	Restricted	158,000	

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2002, unless reauthorized in this Act with the following exceptions: (1) A construction contract for the project shall have been awarded by June 30, 2002; (2) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (4) Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), unless expressly reauthorized or reallotted in this Act. Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), that is not expressly reauthorized or reallotted in this Act is deemed to be reauthorized. Notwithstanding the criteria set forth in this section, the disposition of 2000-2002 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d) with the exception of the Cabinet for Families and Children. To facilitate the transfer of five buildings from the Cabinet for Families and Children to the Finance and Administration Cabinet, it is the intent of the General Assembly that any remaining balance in any currently authorized Cabinet for Families and Children non-bond funded project be credited to the Finance and Administration Cabinet Maintenance Pool. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2002.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The full amount of annualized debt service has been included at the

beginning of fiscal year 2003-2004. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2003.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding KRS 45.750 to 45.810, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance, and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance, and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund in this Act.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below $5,000,000 in fiscal year 2002-2003, any debt service lapse necessary to bring the fund balance to $5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. If the Emergency Repair, Maintenance, and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2002-2003 in debt service lapse shall be deposited to the General Fund Surplus Account for the purpose of paying unbudgeted Necessary Government Expenses. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, Deferred Maintenance Pool Account, or the General Fund Surplus Account shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled Fire/ Life Safety/ Infrastructure-Agency Bond Pool, L.1.a.. Agency Bonds, $80,000,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2002-2004 biennium.

Notwithstanding KRS 45.750 to 45.810, 45.812, 45.814, 45.816, and 45.818, capital construction projects at institutions of postsecondary education involving no state or Federal Funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. The Research Challenge Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.c.) shall be transferred to the Research Challenge Trust Fund as established in KRS 164.7911 and 164.7917.

9. The Regional University Excellence Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.d.) shall be transferred to the Regional University Excellence Trust Fund as established in KRS 164.7911 and 164.7919.

10. Notwithstanding 2000 Ky. Acts ch. 549, Capital Projects Budget Provisions for Part II, Capital Projects, 10., pertaining to the Capital Renewal and Maintenance Pool, the matching requirement is extended until June 30, 2004. Each postsecondary education institution may access any unmatched funds allocated from the Capital Renewal and Maintenance Pool to that institution after entering into an agreement with the Council on Postsecondary Education agreeing to fulfill the matching requirement by June 30, 2004. The Council on Postsecondary Education shall develop guidelines for the agreements.

11. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

12. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects Pool, Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Wetland and Stream Mitigation, Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool, Infrastructure projects, Employment Services facilities projects authorized in this part of this Act, Asbestos

Abatement projects, Technology Trust Fund projects, systems, initiatives, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

13. Notwithstanding KRS 42.560 or any other statute or provision of law to the contrary, all undisbursed funds in the Energy Assistance Trust Fund, the expenditure authority for which expired February 19, 1998, are hereby transferred and appropriated to the Energy Efficiency in State Government Buildings Revolving Loan Fund, contingent upon passage of enabling legislation. These funds represent receipts and accumulated interest thereon from the Stripper Well Settlement Agreement under the U.S. Department of Energy Stripper Well Exemption Litigation, as provided in KRS 42.560 to 42.566. These funds are appropriated as Restricted Funds in the Finance and Administration Cabinet's Capital Budget.

14. Notwithstanding KRS 154.33-600 to 154.33-609 or any other statute or provision of law to the contrary, all moneys appropriated by the 1998 General Assembly and added to or reauthorized by the 2000 General Assembly for the Red Fox golf course are hereby reauthorized and reallocated to a new entity entitled "The Perry/Knott County Recreational Authority" (PKCRA) with the following exception: the $700,000 originally appropriated by the 1998 General Assembly from the Letcher County/Single County Coal Severance tax money is hereby directed to be returned to Letcher County. The balance of funds remaining in the heretofore entitled Red Fox/Carr Fork golf course project are authorized to be directed to a public recreational project or projects including but not limited to a public golf course at a site or sites to be determined by the Authority. The recreational project or projects supported by these funds shall be administered through a new bi-county cooperative authority comprised of one member from each of Knott and Perry Counties who shall be appointed by the respective County Judge/Executive and three members who shall be appointed by the Governor. The new five member Board of the Authority shall develop, operate, and manage the project. This authorization shall supersede any previous authorization by the General Assembly and any memorandum of agreement or understanding that has been entered into among the Commonwealth, Perry, Knott, and Letcher counties.

15. The appropriation by the 2000 General Assembly in the amount of $2,000,000 in Bond Funds for fiscal year 2001-2002 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 661, Aquaculture Infrastructure Components), in accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 4., of this Act, is reauthorized and reallocated in fiscal year 2002-2003 to be appropriated to Kentucky State University as follows: $600,000 to the Purchase Area Aquaculture Cooperative of which $450,000 is to be used for operating costs on the existing facility, education, initiatives to promote marketing and quality control, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Purchase Area Aquaculture Cooperative and the remaining $150,000 is to be used to complete the Pond Cost Share Program for farmers that were deemed qualified but due to rankings did not get funded; $900,000 to the Kentucky State University Aquaculture Program of which $800,000 is to be used for shrimp research and development, and the remaining $100,000 is to be used for bass research and development; $400,000 to the Montgomery County Aquaculture Cooperative, to be spent on the purchase and installation of aquaculture processing equipment, education, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Montgomery County Aquaculture Cooperative; and $100,000 to the Thoroughbred Shrimp Company in Franklin County for support and enhancement of its shrimp hatchery operations, including the purchase and installation of equipment and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Thoroughbred Shrimp Company in Franklin County.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and

48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2002-2003 or fiscal year 2003-2004, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2002-2003 or fiscal year 2003-2004, respectively, then the appropriation increase may be approved. In the event that the review contemplated in this section indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for any variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2002-2004 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) On or before the beginning of each fiscal year; (2) On or before October 1; (3) On or before January 1; and (4) On or before April 1.

3. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

6. A state agency entitled to Federal Funds which would represent 100 percent of the cost of a program shall conform to KRS 48.730.

7. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2002, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2003 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended Legislative Budget as enacted by the 2002 Regular Session of the General Assembly and the recommended State/Executive Budget and Judicial Budget as enacted by the 2003 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2002-2004 biennium, and based upon supporting documentation and legislative records as considered by the 2002 Regular Session of the General Assembly, the 2003 Regular Session of the General Assembly, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required for meeting lease-rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

17. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in an Act of the 2002 Regular Session of the General Assembly or another Act of the 2003 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2001 Regular Session to sine die adjournment of the 2002 Regular Session was not confirmed by the 2002 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2001-2002 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2002 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

18. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System shall be as follows: the General Assembly has determined that the employer contribution rate for the Kentucky Employees Retirement System for fiscal year 2002-2003 shall take appropriate notice of the additional revenues credited to the system as a result of the Anthem Blue Cross Blue Shield demutualization agreement. Therefore, from July 1, 2002, through June 30, 2003, the contribution rates shall be no more than three and seventy-six hundredths percent for nonhazardous duty employees, 17.6 percent for hazardous duty employees, and 17.37 percent for employees of the State Police Retirement System. From July 1, 2003, through June 30, 2004, the employer contribution rate shall be no more than five and eighty-nine hundredths percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System.

19. By August 15, 2003, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

20. By October 15, 2003, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

21. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2002 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

22. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

23. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

24. For fiscal year 2002-2003 and fiscal year 2003-2004, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

25. The Technology Trust Fund is the Technology Trust Fund established by 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Empower Kentucky Steering Committee. However, notwithstanding KRS 45.760(14), 45.770, 45.780, and 45.800, no funds from the Emergency Repair, Maintenance, and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

26. The General Assembly acknowledges that during fiscal year 2000-2001 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the Executive Branch contained in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04, and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised

Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts ch. 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VII, for state government in accordance with KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriations levels for budget units of the Executive Branch contained in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02.

27. Notwithstanding KRS 138.510, tracks with an average daily handle of $1,200,000 or more shall be allowed a tax credit equal to $12,000 multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2003, and ending June 30, 2004, if an amount equal to at least 50 percent of the credit is used for capital improvements and at least 50 percent is used for horsemen's incentives. "Capital improvement" means any addition, replacement, or remodeling of a structural unit of the track, including but not limited to the construction of barns used for the track, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator or equipment, new access roads, new parking facilities, the reconstruction, reshaping, or leveling of the racetrack, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming part of the track structure. Fifty percent of the amount of the tax credit for the horsemen's incentives shall be allocated to purses at the track and 50 percent allocated for stabling and transportation costs. The method of dispersal of the stabling and transportation costs shall be agreed upon by the track receiving the tax credit and the horsemen's group or groups contracting with the track. If a track fails to complete a qualifying capital improvement or make qualifying expenditures for horsemen's incentives, the Kentucky Economic Development Finance Authority as created under KRS 154.20-010 shall order the track to repay to the state all or any portion of the amount of the tax credit received by the track. The track receiving the credit shall report quarterly to the Interim Joint Committee on Appropriations and Revenue on the amounts of qualifying capital improvements and expenditures for horsemen's incentives made for which the credit is claimed.

28. Notwithstanding KRS 138.510, for fiscal year 2003-2004, all harness racetracks licensed by the Kentucky Racing Commission shall not be required to pay the excise tax imposed under KRS 138.510(2) and that amount that would have been paid shall be retained by the track to promote and maintain its facilities and its live meet.

29. Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

30. Notwithstanding KRS 97.035(1), (2), and (3), when a city of the first class and a county containing a city of the first class have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Notwithstanding KRS 97.035(1), (2), and (3), any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under KRS 97.035 may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.

31. As provided in Part V, Funds Transfer, of this Act, any funds remaining in flexible spending accounts of employees of local districts for calendar year 2002 and calendar year 2003 shall also be transferred to the credit of the General Fund.

32. Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

(a) Maintain records relating to these sales to assist in the collection of the use tax owed; and

(b) File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

33. Notwithstanding KRS 154A.130(3) and (4), all net lottery revenues in excess of the amount appropriated in Part I of this Act shall be retained in the General Fund.

34. Notwithstanding KRS 48.705(2)(a), within 30 days of the end of fiscal year 2002-2003, the Secretary of the Finance and Administration Cabinet shall cause to be deposited to the Budget Reserve Trust Fund Account 100 percent of all General Fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently

certified by the State Budget Director pursuant to KRS 48.400(3) for the fiscal year just ended, and 100 percent of the unexpended balance of all General Fund appropriations for the fiscal year just ended that would otherwise lapse to the General Fund Surplus Account under KRS 45.229.

35. Notwithstanding KRS 248.654, all Master Settlement Agreement - Phase I payments in excess of the amounts appropriated in Part I of this Act shall be retained in the General Fund.

36. a. Notwithstanding KRS 18A.115, the Secretary of the Personnel Cabinet shall not approve any additional principal assistants or deputies above the number employed on December 1, 1995.

b. Effective June 30, 2003, the number of principal assistants shall not exceed the number employed on December 1, 1995.

c. Effective December 1, 2003, the number of unclassified employees shall be 100 fewer than the number employed on July 1, 2002.

d. Notwithstanding KRS 12.027 and 12.028, no Executive Order shall create any additional unclassified positions.

e. The Personnel Cabinet shall monitor the number of total employees in the Executive Branch and report to the Interim Joint Committee on Appropriations and Revenue on a monthly basis regarding the targeted reduction of 1,000 employees from the state workforce by December 13, 2003, as set forth in Executive Order 2002-1334.

37. a. The Finance and Administration Cabinet shall report to the Interim Joint Committee on Appropriations and Revenue on a monthly basis regarding the number and encumbered dollar amounts of personal service contracts approved for Executive Branch agencies. For fiscal year 2002-2003, the moratorium as set forth in Executive Order 2002-1334 shall remain in effect. For fiscal year 2003-2004, the total amount of funds encumbered shall not exceed the total expended in fiscal year 2002-2003, less $75,000,000. This maximum shall not be exceeded unless the Secretary of the Finance and Administration Cabinet notifies the Interim Joint Committee on Appropriations and Revenue of the specific reason for public health or safety, legal defense, or other extraordinary circumstances.

b. The Secretary of the Finance and Administration Cabinet shall implement such actions as necessary to reduce the number of sole source contracts and require open competition for all personal service contracts, carefully scrutinize the necessity for all contracts to ensure that services cannot be provided by existing agency staff, and develop a process to evaluate the effectiveness of each contract as to performance and delivery of services. Open competition shall include a reasonable time for bids to be submitted and documentation on how the contract price was determined.

38. Except in the case of a declared emergency, the Governor and all other constitutional officers shall not encumber more than 60 percent of the funds appropriated in this Act during the first half of fiscal year 2003-2004.

39. a. The Transportation Cabinet shall downsize the State Motor Vehicle Fleet by 500 vehicles as set forth in Executive Order 2002-1334. In addition, the Secretary of the Finance and Administration Cabinet and the Secretary of the Transportation Cabinet shall restrict permanently assigned vehicles to only law enforcement or other public safety purposes.

b. The Finance and Administration Cabinet shall continue actions set forth in Executive Order 2002-1334 to reduce energy costs.

c. All state agencies shall continue to monitor all travel expenditures as set forth in Executive Order 2002-1334. In addition, all state agencies shall utilize state parks or other state facilities to the fullest extent feasible.

d. All state agencies shall continue to adhere to printing guidelines as set forth in Executive Order 2002-1334.

40. Notwithstanding KRS 56.803, 56.813, and 56.823, no state agency shall request any new lease space unless a lower annual cost, including utilities, can be documented. No additional space or lease improvements shall be approved.

41. a. Notwithstanding KRS 45.760(12) and (14), no state agency shall purchase new equipment or furniture unless the item must be replaced due to damage or loss, unless the Secretary of the Finance and Administration Cabinet approves the equipment or furniture purchase based on documentation of the necessity and impact on government services if the purchase is not made. If a purchase is authorized, the Division of Correctional Industries or the Division of Surplus Property shall be utilized whenever possible.

b. Any equipment or furniture purchase approved by the Secretary of the Finance and Administration Cabinet in excess of $5,000 shall be reported to the Interim Joint Committee on Appropriations and Revenue.

42. The Secretary of the Finance and Administration Cabinet shall direct all state agencies to review all discretionary expenditures, including but not limited to telecommunications (including cellular telephones and other wireless devices), supplies, commodities, dues, and subscriptions, and implement cost savings actions as may be warranted.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2002-2004 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2002-2004 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2002, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent

positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355(1) and 151B.035, a cost-of-living adjustment amounting to an annualized value of $1,080 is provided in fiscal year 2003-2004 on the base salary or wages of each eligible state employee on their anniversary date. Commencing with an eligible employee's anniversary date, the cost-of-living adjustment shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The cost-of-living adjustment shall be part of the salary or compensation base of the employee.

There is appropriated from the General Fund in fiscal year 2003-2004 $11,200,000 to the State Salary Compensation Fund in the Personnel Cabinet. The Secretary of the Personnel Cabinet, in consultation with the State Budget Director, shall determine the amount of the funds necessary by budget unit to provide for this cost-of-living adjustment. The Secretary of the Personnel Cabinet, in consultation with the State Budget Director, shall determine the pro rata amount of the cost-of-living adjustment to be provided to permanent part-time employees. The State Salary Compensation Fund shall be supplemented by Restricted Agency Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for this cost-of-living adjustment.

The Secretary of the Personnel Cabinet, upon approval by the State Budget Director, shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund from the State Salary Compensation Fund to transfer to each affected budget unit and such funds shall be transferred. The Secretary of the Personnel Cabinet and the State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue regarding the implementation of this provision on a timely basis.

4. Each budget unit with an authorized personnel complement in excess of the number of positions funded in this Act shall submit a plan to the Office of State Budget Director for approval identifying any adequate appropriate funding source prior to filling any positions above the funded number. Upon approval of the State Budget Director, the agency budget may fill the authorized number of positions.

5. a. For purposes of this section:

(1) "Appointing authority" means the agency head as defined in KRS 18A.005(1) and 151B.010(1);

(2) A "furlough" or "reduction in hours" means that an appointing authority may temporarily reduce the number of hours that an employee is scheduled to work within a pay period if the Budget Reduction Plan or cost savings contemplated in this Act are not achieved. In the case of an employee who is considered "salaried" or "exempt" from the coverage of the Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq., the length of a furlough shall not be less than a work week;

(3) A "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations; and

(4) A "lack of work" means an operating authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels.

b. Notwithstanding any other provision of law, an appointing authority, with the approval of the Secretary of the Personnel Cabinet or, in the case of employees governed by KRS Chapter 151B, the State Board for Adult and Technical Education, may temporarily reduce the hours of work assigned to employees due to:

(1) Lack of work;

(2) Seasonal changes in demand for services; or

(3) A current or projected deficiency of funding necessary to maintain current, or to sustain projected, levels of staffing and operations.

c. An employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section shall be notified in writing of the reduced schedule of work, the reasons for the reduction, and the reasons for the employee's selection.

d. Notwithstanding any other provision of law, an employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section:

(1) Shall remain eligible for state-paid benefits during the temporary reduction of hours; and

(2) Shall not be entitled to appeal the reduction to the Personnel Board or, in the case of employees governed by KRS Chapter 151B, the State Board for Adult and Technical Education, unless the length of the furlough exceeds ten consecutive working days.

e. Whenever a furlough is necessary, the appointing authority of an agency shall decide in which county or facility and within which classifications the furlough will occur, and the number of employees to be furloughed within each affected county, facility, or classification. The order of furlough shall be based on length of service and relative qualifications to perform the essential functions of any positions that remain in operation within the agency, county, or facility.

f. An employee subject to KRS Chapter 18A who has been furloughed for more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established by this section in determining the order of furlough, may appeal to the Personnel Board within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 18A.095 shall govern appeals based on furloughs.

g. An employee subject to KRS Chapter 151B who has been furloughed more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established in this section in determining the order of furlough, may appeal to the State Board for Adult and Technical Education within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 151B.060 shall govern appeals based on furlough.

h. Notwithstanding any other provision of law, an employee participating in one of the state retirement systems who is furloughed to the extent of working less than 100 hours per month shall, upon return to regular hours, have the right to purchase service credit, based upon the regular rate of pay, for the months the employee was placed on furlough and worked less than 100 hours. Payment may be by lump sum or in increments and shall be computed by the retirement system in accordance with applicable law. If the employee elects to purchase service credit, the employing agency shall pick up contributions for the months purchased by the employee in accordance with applicable retirement statutes.

i. The Secretary of the Personnel Cabinet shall promulgate an administrative regulation to implement a furlough program; however, the Secretary shall present the proposed administrative regulation to the Interim Joint Committee on Appropriations and Revenue prior to filing the administrative regulation. The administrative regulation shall include a provision authorizing employees to elect to voluntarily participate in a furlough program.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2002-2003 and fiscal year 2003-2004.

		2002-03	2003-04
A.	GOVERNMENT OPERATIONS		
1.	Office of State Budget Director Agency Revenue Funds	550,000	
2.	Governor's Office for Technology Other Special Revenue Funds	377,300	
3.	Department of Veterans' Affairs Agency Revenue Funds	830,300	
4.	Governor's Office of Early Childhood Development (KRS 200.151)	1,861,800	
5.	Kentucky Infrastructure Authority Other Special Revenue Funds (KRS 224A.112)	1,000,000	1,000,000
6.	Governor's Office of Agricultural Policy Tobacco Funds (KRS 248.703)	611,200	513,300
7.	KY Agency for Substance Abuse (KRS 200.151)	1,500,000	1,500,000
8.	Secretary of State (KRS 14.140)	200,000	
9.	Secretary of State Trust Funds	2,000	
10.	Board of Elections	23,300	

	Other Special Revenue Funds		
11.	Attorney General	562,500	
	Agency Revenue Funds		
12.	Attorney General	16,800	
	Other Special Revenue Funds		
13.	County Attorneys	28,900	
	Agency Revenue Funds		
14.	Auditor of Public Accounts	300,000	
	Agency Revenue Funds		
15.	Military Affairs	500,000	
	Agency Revenue Funds		
16.	Local Government Economic Development Fund (KRS 42.4592)		10,603,000
17.	Commission on Human Rights	1,500	
	Agency Revenue Funds		
18.	Board of Accountancy (KRS 325.250)	300,000	
19.	Board of Architects (KRS Chapter 323)	60,900	
20.	Board of Auctioneers (KRS 330.050 and 330.192)	476,400	
21.	Board of Chiropractic Examiners (KRS 312.019)	49,500	
22.	Board of Dentistry (KRS 313.350)	56,000	
23.	Board of Dietitians and Nutritionists (KRS 310.041)	79,900	
24.	Board of Embalmers and Funeral Directors (KRS Chapter 316)	74,000	
25.	Board of Engineers and Land Surveyors (KRS 322.420)	544,700	
26.	Board of Geologists (KRS 322A.050)	40,000	
27.	Board of Landscape Architects (KRS Chapter 323)	14,000	
28.	Board of Marriage and Family Therapists (KRS 335.342)	8,600	
29.	Board of Medical Licensure (KRS 311.610)	794,000	
30.	Board of Nursing (KRS 314.456)	1,574,700	
31.	Board of Occupational Therapy (KRS 319A.050)	168,600	
32.	Board of Ophthalmic Dispensers (KRS 326.120)	14,500	
33.	Board of Optometric Examiners (KRS 320.360)	32,600	

34.	Board of Pharmacy (KRS 315.195)	811,700	
35.	Board of Physical Therapy (KRS 327.080)	77,400	
36.	Board of Podiatry (KRS 311.450)	65,500	
37.	Board of Professional Counselors (KRS 335.520)	47,500	
38.	Board of Proprietary Education (KRS 165A.380)	263,200	
39.	Real Estate Appraisers Board (KRS 324A.065)	206,600	
40.	Real Estate Commission (KRS 324.286 and 324.410)	853,600	
41.	Board of Respiratory Care (KRS 314A.215)	3,600	
42.	Board of Social Workers (KRS 335.140)	163,400	
43.	Board of Speech Pathologists and Audiologists (KRS 334A.120)	68,100	
44.	Board of Veterinary Examiners (KRS 321.320)	82,900	
B.	CABINET FOR ECONOMIC DEVELOPMENT		
1.	Kentucky Economic Development Finance Authority (KRS 154.20-010 to 154.20-150)	13,327,000	11,895,000
2.	Financial Incentives Other Special Revenue Funds	6,600	
C.	EDUCATION		
1.	Operations and Support Services Agency Revenue Funds	50,000	
2.	School Districts Flexible Spending Accounts	14,000,000	14,000,000
D.	EDUCATION, ARTS, AND HUMANITIES CABINET		
1.	Kentucky Arts Council (KRS 153.210 to 153.235)	57,200	
2.	Libraries and Archives - General Operations Agency Revenue Funds	33,900	
3.	Libraries and Archives - Direct Local Aid Agency Revenue Funds	14,400	
E.	CABINET FOR FAMILIES AND CHILDREN		
1.	Community Based Services Agency Revenue Funds	15,000,000	
F.	FINANCE AND ADMINISTRATION CABINET		
1.	General Administration Asbestos Litigation Fund	340,600	
2.	General Administration	184,900	

	Other Special Revenue Funds			
3.	General Administration		508,700	
	Other Expendable Trust Funds			
4.	Office of the Controller		2,847,900	
	Other Special Revenue Funds			
5.	Debt Service (KRS 248.655)	12,300		
6.	Capital Construction Investment Income		4,000,000	3,000,000
7.	Capital Construction and Equipment Purchase Contingency Fund (KRS 45.770)		16,928,000	
8.	Emergency Repair, Maintenance, and Replacement Fund (KRS 45.780)		5,000,000	
9.	Statewide Deferred Maintenance Fund		1,000,000	
10.	Capital Construction Surplus Account (KRS 45.775)		2,009,000	
11.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5, II., 5)		12,743,800	
12.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Rural Development Trust Fund (KRS 248.654)		2,023,700	
13.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Early Childhood Development Trust Fund (KRS 200.151 and 248.654)		1,556,700	
14.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Health Care Improvement Trust Fund (KRS 194A.055 and 248.654)		1,556,700	
15.	Rural Development Trust Fund Interest Income (KRS 248.654 and 248.655)		973,300	
16.	Early Childhood Development Trust Fund Interest Income (KRS 200.151 and 248.654)		163,600	
17.	Health Care Improvement Trust Fund Interest Income (KRS 194A.055 and 248.655)		145,700	
G.	CABINET FOR HEALTH SERVICES			
1.	Public Health (KRS 200.151)	299,000		
2.	Mental Health/Mental Retardation (KRS 200.151)		18,500	
3.	Children With Special Health Care Needs (KRS 200.151)		131,700	

4.	Aging Services Other Special Revenue Funds		50,000	
5.	Administrative Support Other Special Revenue Funds		238,000	
H.	JUSTICE CABINET			
1.	State Police Agency Revenue Funds	1,250,000		
2.	Criminal Justice Training Kentucky Law Enforcement Foundation Program Fund (KRS 15.430 and 136.392(2))		3,600,000	
3.	Juvenile Justice Agency Revenue Funds		6,000,000	4,000,000
4.	Juvenile Justice Other Special Revenue Funds		39,600	
I.	LABOR CABINET			
1.	General Administration and Support Agency Revenue Funds		250,000	
2.	Workers' Compensation Funding Commission Agency Revenue Funds (KRS 342.122 and 342.1223)		4,750,000	
J.	NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET			
1.	Environmental Protection Agency Revenue Funds		1,100,000	
2.	Environmental Protection Waste Tire Trust Fund (KRS 224.50-870)			500,000
3.	Natural Resources Agency Revenue Funds		900,000	
4.	Surface Mining Reclamation and Enforcement Agency Revenue Funds		1,500,000	
5.	Surface Mining Reclamation and Enforcement - Bond Pool Fund (KRS 350.700)		3,000,000	
6.	Kentucky Pride Trust Fund (KRS 224.43-505)			2,468,000
K.	PERSONNEL CABINET			
1.	Flexible Spending Account (KRS 18A.225(2)(g))		13,000,000	1,326,000
2.	Health Purchasing Alliance Refund (KRS 304.17A-071)		3,630,200	
3.	State Employees Workers' Compensation Reserve (KRS 18A.370 to 18A.385)		4,000,000	
4.	Personnel - General Operations Trust Funds		347,600	

5.	General Operations Agency Revenue Funds	50,000	
6.	General Operations Insurance Administration Funds	60,000	
L.	POSTSECONDARY EDUCATION		
1.	Council on Postsecondary Education Agency Revenue Funds	92,100	
2.	Council on Postsecondary Education Student Financial Aid and Advancement Trust Fund (KRS 164.7911 and 164.7927)	406,200	
3.	Council on Postsecondary Education Adult Education and Literacy Funding Program (KRS 164.041)	245,000	
4.	Council on Postsecondary Education University Equine Program Trust Fund (KRS 138.510(6))	48,500	
5.	Council on Postsecondary Education Strategic Investment and Incentive Funding Program Trust Fund - Interest Income (2000 Ky. Acts ch. 549, Part I, L., 56)	2,200,000	
6.	Kentucky Higher Education Assistance Authority (KRS 200.151)	193,000	
7.	Kentucky Community and Technical College System Kentucky Firefighters Foundation Program Fund (KRS 95A.220, 95A.262, and 136.392(2))	1,400,000	
M.	PUBLIC PROTECTION AND REGULATION CABINET		
1.	Alcoholic Beverage Control (KRS 243.025)	2,500,000	500,000
2.	Financial Institutions (KRS 287.485)	3,700,000	2,000,000
3.	Kentucky Racing Commission (KRS 230.374)	1,430,000	
4.	Insurance (KRS 304.2-400)	6,000,000	6,000,000
5.	Insurance Fire and Tornado Insurance Fund (KRS 56.095, 56.150, and 56.180)	500,000	500,000
6.	Insurance Kentucky Access (KRS 304.17B-001 to 304.17B-031)	56,000,000	
7.	Public Service Commission (KRS 278.150(3))	284,400	508,600
8.	Secretary - General Operations	300,000	

	Agency Revenue Funds		
9.	Secretary - Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-100 to 224.60-160)	71,000,000	20,500,000
N.	TOURISM DEVELOPMENT CABINET		
1.	Department of Parks (KRS 148.021)	500,000	
2.	Kentucky State Fair Board Freedom Hall Portable Trailers (2000 Ky. Acts ch. 549, Part II, Sec. O., 2., c)	300,000	
3.	Kentucky State Fair Board Agency Revenue Funds	1,500,000	2,413,500
O.	TRANSPORTATION CABINET		
1.	Air Transportation Kentucky Aviation Economic Development Fund (KRS 183.525(3), (4), and (5))	2,900,000	
2.	General Administration and Support Fleet Management Fund	6,000,000	
P.	WORKFORCE DEVELOPMENT CABINET		
1.	Technical Education Agency Revenue Funds	100,000	
2.	Employment Services Unemployment Insurance Penalty and Interest (KRS 341.835)	2,250,000	
	TOTAL	313,845,300	83,227,400

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,916,450,000 in fiscal year 2002-2003 and $7,149,750,000 in fiscal year 2003-2004 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and

Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2002-2003 and 50 percent of the trust fund balance in fiscal year 2003-2004.

(5) Notwithstanding the provisions of KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2002-2003 and fiscal year 2003-2004. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,121,129,400 in fiscal year 2002-2003 and $1,140,210,500 in fiscal year 2003-2004 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2002-2004 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATIONS

1. GOVERNOR'S OFFICE FOR TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office for Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

b. Electronic Health Network - Feasibility Study: The Interim Joint Committee on Health and Welfare of the Legislative Research Commission is directed to study the feasibility of implementing an electronic health network in the Commonwealth. The Interim Joint Committee on Health and Welfare will report its findings and recommendations to the Legislative Research Commission by December 1, 2002.

c. CMRS Board: Notwithstanding KRS 65.7639, no information provided to the CMRS Board under KRS 65.7639 shall be disclosed other than to the submitting CMRS provider, the administrator, the board, and the independent certified public accountant retained by the Board under KRS 65.7629(13) without the express permission of the submitting CMRS provider unless ordered by a court of competent jurisdiction.

2. DEPARTMENT OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2002-2004.

b. General Fund Operating Support: Notwithstanding KRS 45.229, the unexpended balance of the General Fund appropriation provided to the Eastern Kentucky Veterans' Center, the Western Kentucky Veterans' Center, and the Thompson/Hood Veterans' Center in fiscal year 2001-2002 shall not lapse and shall be carried forward into fiscal year 2002-2003; the unexpended balance of the General Fund appropriation in fiscal year 2002-2003 shall not lapse and shall be carried forward into fiscal year 2003-2004.

3. SECRETARY OF STATE

a. Help America Vote Act Duties: The Secretary of State, in conjunction with the Governor, shall prepare a state plan meeting the requirements of the Help America Vote Act of 2002, Pub. L. No. 107-252, for submission to the federal government. The Secretary of State shall utilize the amounts in the Election Reform Fund for the purposes of the Help America Vote Act.

b. Election Reform Fund Account: An Election Reform Fund account is created to receive and expend Federal Funds provided under the Help America Vote Act, Federal Funds provided under any federal appropriations acts that are enacted to fund the Help America Vote Act, or other amounts that may be appropriated by law, and any interest accruing thereon.

c. Help America Vote Act, Budgetary Operations: In order to implement the provisions of the Help America Vote Act and carry out the provisions of enabling legislation, and to serve as the five percent state match for Kentucky's receipt of Federal Funds under the Help America Vote Act, in Part I, Operating Budget, there is appropriated from the General Fund to the Election Reform Fund the sum of $2,100,000 in fiscal year 2002-2003. Notwithstanding KRS 45.229, any funds unexpended by the Secretary of State from the Election Reform Fund at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund, shall not lapse, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes as specified in enabling legislation.

4. BOARD OF ELECTIONS

a. Help America Vote Act Funding Requirements for Federal Assistance: For purposes of compliance with the Help America Vote Act, upon the receipt of Federal Funds provided by Title III of the Help America Vote Act, any amounts appropriated to the State Board of Elections to meet the requirements of Title III of the Help America Vote Act shall not be less than the sum of $1,303,100, which is the level of expenditures maintained by the Commonwealth for fiscal year 1999-2000 for the administration of elections.

5. ATTORNEY GENERAL

a. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two assistant deputy attorneys general at a rate less than that required in KRS 15.100.

b. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2002-2004 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

c. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

d. Child Sexual Abuse Exams: Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victim's license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

e. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

f. Public Funds: Notwithstanding KRS 48.005(5)(b), up to $2,200,000 in funds collected pursuant to KRS 48.005(5) shall be deposited in an off-budget account and transferred to the County Cemetery Fund in accordance with Part IX, Special Provisions, Government Operations, 8.b., of this Act. Notwithstanding KRS 48.005(5)(b), any amounts in excess of $2,200,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action, or persons for whom the recovery is received if identified specifically. Identification includes but is not limited to identification either by individual Social Security numbers, by other identifying number, or by proper name.

6. UNIFIED PROSECUTORIAL SYSTEM

a. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in this Act.

b. Rape Victim Assistance Fund: Notwithstanding KRS 216B.400(8), the Rape Victim Assistance Fund and the responsibility for claims payments made from the fund shall be transferred to the Board of Claims/Crime Victims' Compensation Board in fiscal year 2003-2004.

7. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of 120 days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2003 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

8. DEPARTMENT OF AGRICULTURE

a. Agriculture - PACE Program: The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

b. Reauthorization of the Kentucky Aquaculture Task Force: The Kentucky Aquaculture Task Force is reauthorized and attached to the Department of Agriculture for administrative purposes. The membership, duties, and responsibilities of the Task Force shall be identical to those enacted by the 2000 Kentucky General Assembly, 2000 Ky. Acts ch. 77, except the Task Force shall develop an interim report by September 1, 2002, and a final report by September 1, 2003, with respect to the implementation of the State Aquaculture Plan recommendations and other recommendations that the Task Force may support relating to the aquaculture industry in the Commonwealth. The reports shall be submitted to the Governor and to the Legislative Research Commission.

Notwithstanding the provisions of this section, the Legislative Research Commission shall have the authority to alternatively assign the directives identified in this section to an interim joint committee or subcommittee thereof, and to designate a study completion date. In the event the Legislative Research Commission assigns the responsibilities and duties relating to the Kentucky Aquaculture Task Force to an interim joint committee or subcommittee thereof, any funds remaining from the amounts provided in Part I, Operating Budget, of this Act for the purpose of preparing the reports to be completed by the Task Force shall be transferred to the Legislative Research Commission.

9. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

10. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

b. Cemetery Preservation: Restricted Funds of $2,200,000 attributable to Multi-State Consumer Protection Lawsuit Settlement Proceeds shall be transferred to the County Cemetery Fund pursuant to KRS 67.682. In fiscal year 2002-2003, $1,450,000 is appropriated from these funds in the form of grants pursuant to KRS 67.682. The remaining unappropriated Restricted Funds transferred to the County Cemetery Fund shall not lapse and shall carry forward from each fiscal year to the succeeding fiscal year. In fiscal year 2003-2004, $250,000 is appropriated from these funds in the form of grants pursuant to KRS 67.682. Included within the above appropriated amounts, $1,200,000 shall be made available to the Louisville/Jefferson County Cemetery Preservation initiative upon certification to the Department for Local Government that $800,000 in local cash matching resources has been raised. The City of Louisville shall administer this initiative. Also included within the above appropriated amounts is $250,000 in each fiscal year of the biennium for cemetery preservation grants to be approved by the Department for

Local Government subject to a dollar-for-dollar cash or non-cash match from individual public or private grant applicants. Included in the above appropriated amounts is $20,000 each fiscal year that is appropriated and granted to the Fayette County African Cemetery #2. Notwithstanding KRS 42.500, the Department for Local Government may expend interest earnings from the County Cemetery Fund for program administration upon application to and approval from the State Budget Director whose approval shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630. Funds credited to the County Cemetery Fund shall be invested by the Finance and Administration Cabinet according to existing law.

11. EDUCATION PROFESSIONAL STANDARDS BOARD

a. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

b. Teacher Education Model Program: Funding in the amount of $2,000,000 shall be provided during fiscal year 2002-2003 for a Teacher Education Model Program to be administered by the Education Professional Standards Board. The purposes of the program shall be to:

(1) (a) Support model teacher education programs that demonstrate effective research-based instruction and assessment practices, involve the entire university community in teacher education, demonstrate collaboration and partnerships between elementary, secondary, and postsecondary education, facilitate the recruitment and retention of talented people in the teaching profession through innovative, nontraditional programs and multiple certification routes; require high-quality, extensive field experiences and practicums in addition to ongoing classroom observations as an essential element at all stages of the Teacher Preparation Program, and raise the existing and prospective teachers' professional knowledge in content and pedagogy.

(b) Provide incentives to teacher education and other university faculty to increase service activities beyond the usual field observations and supervision of teacher education students to include mentoring and guiding of prospective teacher education students, of beginning teachers in the induction stage, and of experienced teachers in continuous improvement activities; conducting training and professional development activities which may include funding stipends to teachers for participation; providing funding and supervision for paid sabbaticals for a selected number of local school district teachers; assisting teachers with evaluation and revision of curricula and instruction to improve student achievement; and other innovative strategies to improve the quality of teaching.

(2) By October 15, 2002, the Board shall identify two or more public or independent teacher education institutions or consortia of institutions that meet the criteria in subsection (1)(a) of this section and are eligible to make applications for funds under this section.

(3) By November 1, 2002, the Board shall establish the grant request process, the time frame, and the system for determining the size of the grants. In determining the size of the grants, the Board shall consider the scope of the Teacher Education Program, the number of undergraduate and graduate students enrolled, the number of teacher and administrator interns, the extent of university-wide faculty involvement in induction and in-service activities with teachers in local school districts, and other data as deemed appropriate by the Board. By January 1, 2003, all eligible institutions shall be notified of the request for proposals.

(4) The Board shall make the grant awards prior to the start of the 2003-2004 fiscal year.

12. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

ECONOMIC DEVELOPMENT

13. OFFICE OF THE SECRETARY

a. New Economy: Funding for the Commissioner for the New Economy: Notwithstanding Subtitle 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the Commissioner for the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects.

Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget.

b. New Economy Women and Minority Programs: The Commissioner of the Office for the New Economy shall develop a New Economy Role Model Program and Entrepreneurial Educational Program that will encourage the participation of women and minorities in the knowledge-based economy. Such activity shall be reported within the Annual Report to the Governor and General Assembly as prescribed by KRS 164.6015(9)(d).

14. FINANCIAL INCENTIVES

The total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,000,000 for all investors and all taxable years. The total Kentucky Investment Fund Act (KIFA) tax credits available for all investors in all investment funds shall not exceed $3,000,000 per fiscal year.

Notwithstanding KRS 154.20-255 and 154.20-256, the Commissioner of the Office for the New Economy shall establish standards and criteria that shall be used to grant investment fund managers a waiver from compliance with KRS 292.330 and any other requirement under state law that an investment fund manager shall be a registered investment advisor. A waiver granted by the Commissioner of the Office for the New Economy to any investment fund manager that exempts the investment fund manager from complying with KRS 292.330, or the Kentucky Economic Development Fund Authority's approval of an investment fund or investment fund manager under this section, shall not be construed a certification of the investment fund manager's experience, knowledge, quality or other abilities and competencies. This information shall be conveyed to each investor.

Notwithstanding 2002 Ky. Acts ch. 230, any administrative regulation to be promulgated regarding the programs, policies, or tax credits addressed in 2002 Ky. Acts ch. 230 shall be reviewed and approved by the Commissioner of the Office for the New Economy.

The Department of Financial Incentives shall defer to the Commissioner of the Office for the New Economy when preparing contracts subsequent to the Kentucky Economic Development Finance Authority's approval of projects recommended by the Commissioner of the Office for the New Economy. These contracts shall be acted upon within 60 days following the approval of the Authority.

DEPARTMENT OF EDUCATION

15. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: Notwithstanding KRS 157.360(2)(c), the General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) Program are intended to provide a base guarantee of $3,081 per student in average daily attendance in fiscal year 2002-2003 and $3,164 per student in average daily attendance in fiscal year 2003-2004 as well as to meet the other requirements of KRS 157.360.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Certified Staff Cost of Living Adjustments: Notwithstanding KRS 157.420(2), all certified staff employed by local boards of education shall receive a cost-of-living adjustment totaling at least $1,080 in fiscal year 2003-2004. The cost-of-living adjustment shall be at least $1,080 for every certified staff member employed by a local board of education regardless of the individual length of the staff member's employment contract or annual base salary. Certified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the $1,080 cost-of-living adjustment based on terms of their employment. The cost-of-living adjustment totaling at least $1,080 in fiscal year 2003-2004 shall be in addition to the normal rank and step increases attained by certified personnel employed in local school districts.

c. Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

d. Local Revenue: For calendar year 2003, a district board of education may levy a general rate that will produce revenue from real property, exclusive of revenue from new property that is up to four percent over the amount of the revenue produced by the compensating rate as defined in KRS 132.010.

e. SEEK Adjustment Factors: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

f. Use of Local District Capital Outlay Funds: Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2003-2004 without forfeiture of the district's participation in the School Facility Construction Commission.

16. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

b. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

c. Medicaid Reimbursement Funds: The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid Program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Medicaid Services prior to review and approval by the Governor's Office of Policy and Management and submission to the Interim Joint Committee on Appropriations and Revenue at least 60 days prior to any distribution of federal funds.

d. Elementary Arts and Language Education: The Department of Education shall establish a program that promotes the integration of the arts and foreign languages in the elementary school program. A school must submit any application through the district superintendent, with the agreement of the school council or of the principal, if a council does not exist. Out of any moneys made available for this purpose in the 2002-2004 fiscal biennium, the department shall award a grant to at least one school per region based on the quality of the application in meeting the criteria established in this section. Special consideration shall be given but not limited to a school that does not have an existing comprehensive arts and foreign language program.

School programs under this section must include, at a minimum, the following components: (1) Instruction in each of the four disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school; (2) Intense instruction in at least one foreign language and culture taught and including all students in the elementary school; (3) Integration of arts and foreign language instruction across the curriculum; (4) Coordination of the programs by teachers with appropriate arts and foreign language certification; (5) Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign language; (6) An effective monitoring and evaluation system that includes student performance assessment; (7) Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers; (8) Support from the local school board, the school council, and teachers; and (9) Student attendance at one or more live performance or visual art exhibition each school year.

The Department of Education shall report annually on the implementation of the program to the Governor and the Legislative Research Commission.

e. Kentucky Board of Education Membership: Notwithstanding KRS 156.029(2), no Kentucky Board of Education member at the time of the member's appointment or during the term of service shall be engaged as a professional educator in elementary or secondary education.

17. LEARNING AND RESULTS SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2002-2003 but shall be available if needed in fiscal year 2003-2004. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the per month per employee assessment as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System:

(1) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(2) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Family Resource and Youth Services Centers: Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2002-2003 and in fiscal year 2003-2004 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 2001-2002 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than 70 percent of its fiscal year 2001-2002 allocation.

e. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

f. Allocation of Safe School Funds: Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

g. Gifted and Talented Funds: All moneys appropriated for the Gifted and Talented Program shall be expended by local school districts solely for purposes and activities relating to the Gifted and Talented Program.

h. Fund Transfers: The Commissioner of the Department of Education may transfer any available funds between the Professional Growth Fund and the Professional Development Leadership Mentor Fund as needed to satisfy the demand and need to support respective teacher programs.

i. Program Flexibility: Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regards to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall be modified to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population.

j. Advisory Council for Gifted and Talented Education: Notwithstanding KRS 158.648(1), a member of the Advisory Council for Gifted and Talented Education may be reappointed but may not serve more than three consecutive terms.

k. Publishing Requirements: Notwithstanding KRS 160.463 and 424.220, public availability of the school district's complete annual financial statement shall be made by publishing the documents in the newspaper of the largest general circulation in the county, electronically on the Internet, or by printed copy at a prearranged site at the main branch of the public library within the school district. If publication on the Internet or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public. The notification shall include the address of the library or the electronic address of the Web site on the Internet where the documents can be viewed.

l. Director of Pupil Personnel: Notwithstanding KRS 159.140, a local district superintendent may employ the Director of Pupil Personnel less than full-time upon approval of a request submitted to the Commissioner of Education. The Commissioner shall take into consideration the size of the school district, the attendance and dropout rate of the district, and the district's supports to assure student attendance and school completion in approving a request.

m. Textbook Adoption: Notwithstanding KRS 156.400, the Commissioner of Education may delay the adoption of textbooks or combine two groups for adoption.

n. Local District Grant Fund Carry Forward: Notwithstanding KRS 45.229, up to ten percent of any state grant fund to a local district that is unexpended for fiscal year 2002-2003 may be carried forward to fiscal year 2003-2004 without a reduction in the fiscal year 2003-2004 allocation.

o. Surplus Property: Notwithstanding KRS 45A.045, 45.777, and 56.463, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind and the Kentucky School for the Deaf shall be deposited in a restricted account for the sole use by those schools in accordance with all other applicable statutes.

EDUCATION, ARTS, AND HUMANITIES

18. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapters 158 and 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

b. Critical Shortage Provision: Teachers' Retirement System members who retired on or before June 30, 2002, may, for fiscal year 2002-2003 and fiscal year 2003-2004, be reemployed under the full-time critical shortage provisions of KRS 161.605(7) as they existed on June 30, 2002.

19. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2002-2003 and fiscal year 2003-2004 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

c. School Operations: School #840, a historical community school in district #175, shall not be closed or substantially changed.

d. Growth Nickel Levy: The Facilities Support Program of Kentucky is fully funded in fiscal biennium 2002-2004. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

e. Facilities Plans: Notwithstanding KRS 157.620(5), any school district that did not receive an offer of assistance during the 2000-2002 biennium that resulted from the $100,000,000 authorization of the 2000 General Assembly, that has an unmet need established based on the facility plan in effect on June 30, 2002, shall receive an offer of assistance based on any increase to the above-referenced authorization made by the 2003 General Assembly that is not specifically designated for another purpose.

f. Escrowed Offers of Assistance: Notwithstanding 750 KAR 1:010, Section 5, the 2000 Kentucky School Facilities Construction Commission offer of assistance for Public School District 221 shall be reinstated.

g. Accumulated Credits: Notwithstanding 750 KAR 1:010, Section 9, Public School District 235 shall not forfeit fund credit accumulated.

h. School Facility Revenue: A local board of education may commit an equivalent tax rate not to exceed five cents ($.05) in addition to the taxes levied in KRS 157.440 (1) (b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year, and shall not be equalized with state funding. The levy shall be subject to recall.

20. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Undistributed moneys: Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with a book supplier shall be appropriated to the Department of Libraries and Archives for the benefit of libraries in the Commonwealth.

CABINET FOR FAMILIES AND CHILDREN

21. CABINETWIDE

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet. Phase I Tobacco Settlement Funds appropriated to the Cabinet may be used as state match to maximize Federal Funds available through the Child Care Development Fund.

b. Human Services Transportation Delivery: Notwithstanding KRS 281.014, 281.870, 281.872 or any other statute or provision of law to the contrary, the Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

22. COMMUNITY BASED SERVICES

a. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of seven percent of total adult public assistance recipients placements in postsecondary or vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance.

b. Severely Emotionally Disturbed Children: Included in the General Fund appropriation is $600,000 in fiscal year 2002-2003 and $600,000 in fiscal year 2003-2004 to provide services for state-committed severely emotionally disturbed children.

c. Child Support Contracting Officials: Included in the General Fund and Federal Funds appropriations for Community Based Services is support for Child Support Contracting Officials to be maintained at the fiscal year 2001-2002 total contracted level of $33,185,100. Up to $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 of Child Support Performance Award Funds may be utilized in the Child Support Contracting Officials Contracts to maximize Federal Funds. Funds for individual contracts shall be allocated based on spending and performance patterns utilizing an equity plan negotiated between the Cabinet for Families and Children and the County Attorney Association.

d. Adoptions: In addition to the required health history, the Cabinet for Families and Children or child-placing agency shall provide to adoptive parents or adopted person and to the Circuit Court in writing on a standardized form other nonidentifying background information of the biological parents and blood relatives of the adopted person. The information shall be provided in accordance with KRS 199.520.

e. Children's Advocacy Centers: Included in the General Fund appropriation for the Department for Community Based Services is $100,000 in fiscal year 2003-2004 for child sexual abuse exams.

f. Child Care Services: Child care services, including provider rates, participant copays, and eligibility requirements, are maintained at the current levels.

g. Guardianship Program: Pursuant to KRS 210.290 and 387.600, the Cabinet for Families and Children may be appointed guardian only when no other suitable person or entity is available or willing to be appointed.

HEALTH SERVICES

23. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

24. MEDICAID ADMINISTRATION

a. Transfer of General Fund or Restricted Funds from Medicaid Benefits to Medicaid Administration: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability and Accountability Act (HIPAA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director, and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Kentucky Patient Access to Care (KenPAC) Program Reimbursement: The Medicaid Benefits Budget includes funds to continue an Enhanced Kentucky Patient Access to Care (KenPAC) Program with reimbursement to gatekeeper providers on a sliding scale of $3 to $9 per member per month based upon performance and quality criteria. The Department for Medicaid Services shall promulgate administrative regulations which reflect this Act.

c. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

d. Administrative Service Organization: The Department for Medicaid Services shall, no later than July 1, 2002, initiate a formal procurement process, pursuant to KRS Chapter 45, to contract with an Administrative Service Organization (ASO). This organization shall assist with the administration of the Kentucky Access to Patient Care (KenPAC) Program for all geographic areas of the Commonwealth except those areas covered by the Region III Medicaid Partnership (Passport Health Plan). Responsibilities of the ASO shall include but not be limited to: (1) Data collection and analysis for purposes of utilization management of KenPAC services; (2) Client education and assignment; (3) Provider recruitment and education; (4) Physician profiling, including an analysis of cost and utilization by category of service (i.e. inpatient, outpatient, emergency room (ER), laboratory, ambulatory, pharmacy, and home health), and an analysis of cost by diagnoses codes for peer comparisons of utilization; (5) Support services for KenPAC primary care providers including disease management, a help desk for the management of ER services, and the restructuring of payment methodologies to align with utilization management goals; and (6) The design and management of provider incentives and measures to assure program integrity and management of the Lock-in Program. Using improved data collection methods, the ASO shall focus on cost containment and utilization management for all KenPAC services including hospital, home health, pharmacy, durable medical equipment and diagnostics, with a special emphasis on the management of care for high cost utilizers. In order to monitor the effectiveness of managed care through the Primary Care Case Management KenPAC model, an annual report shall be prepared which shall include but not be limited to patient-centered measures and an analysis utilizing the National Committee for Quality Assurance Health Plan Employer Data and Information Set (HEDIS) quality and use of services measures. HEDIS measures currently include: (1) Childhood immunization status; (2)

Adolescent immunization status; (3) Breast cancer screening; (4) Cervical cancer screening; (5) Chlamydia screening for women; (6) Controlling high blood pressure; (7) Beta-blocker treatment after a heart attack; (8) Cholesterol management after acute cardiovascular events; (9) Comprehensive diabetes care; (10) The use of appropriate medications for persons with asthma; (11) Follow-up after hospitalization for mental illness; (12) Antidepressant medication management; (13) Advising smokers to quit; (14) Adults' access to preventive/ambulatory health services; (15) Children's access to primary care practitioners; (16) Prenatal and postpartum care; (17) Annual dental visits; (18) Practitioner turnover; (19) The frequency of on-going prenatal care; (20) Well-child visits in the first 15 months of life; (21) Well-child visits in the third, fourth, fifth, and sixth year of life; (22) Adolescent well-care visits; (23) The frequency of selected procedures; (24) Inpatient utilization of general hospital/acute care; (25) Ambulatory care (includes ER); (26) Inpatient utilization of non-acute care; (27) Discharge policies and average length of stay for maternity care; (28) Cesarean section; (29) Vaginal birth after cesarean section birth rate (VBAC rate); (30) Births and average length of stay for newborns; (31) Mental health utilization - inpatient discharges and average lengths of stay; (32) Mental health utilization - the percentage of members receiving services; (33) Chemical dependency utilization - inpatient discharges and average lengths of stay; (34) Chemical dependency utilization - percentage of members receiving services; and (35) Outpatient drug utilization. The annual report shall also include: (1) An evaluation of provider-centered measures; (2) The success of an analysis of physician profiling including financial profiling, and case-mix adjusted profiling; (3) Trend rates of the utilization of all KenPAC services; (4) Provider surveys; and (5) Cost containment realization. The annual report shall also profile patient population measures and trends, including eligibility by age, gender, and eligibility category. To the extent possible, the annual report shall also include comparisons to similar programs in peer states, particularly the southern region.

e. Nursing Facility Reimbursement Review: The Cabinet for Health Services shall review the current reimbursement methodology for nursing facility services to determine if current price-based methodology reflects actual direct nursing care costs and promotes quality long term care. The Cabinet shall include the following organizations in this study panel: Kentucky Hospital Association, Kentucky Association of Homes and Services for the Aging, and the Kentucky Association of Health Care Facilities. The report shall be due to the Legislative Research Commission, Interim Joint Committee on Appropriations and Revenue, and Interim Joint Committee on Health and Welfare by December 1, 2002.

25. MEDICAID SERVICES - BENEFITS

a. Disproportionate Share Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Office of Inspector General, Division of Community Health Services, shall include this provision in facilities' annual licensure inspection.

d. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

e. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

f. Kentucky Children's Health Insurance Program: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from the Medicaid Benefits to the Kentucky Children's Health Insurance Program (KCHIP) General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

g. Intergovernmental Transfers (IGT's): It is the intent of the General Assembly that any funds received through an intergovernmental transfer agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from Intergovernmental Transfers are contingent upon agreement by the parties and, when negotiated, the Secretary shall make the appropriations increase requests pursuant to KRS 48.630.

h. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available, effective July 1, 2000. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in Part I, Operating Budget. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements.

i. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care (KenPAC), nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

j. Medicaid Benefits Budget Deficit: In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health Services shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis. No service, eligible, or program reductions shall be implemented by the Cabinet for Health Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue. Objections to the actions by the Committee shall be responded to in writing in detail, by the Secretary for Health Services within 30 days of such objections.

k. Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health Services may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid Program or the number of eligibles, or transfer General Fund up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible or program shall be increased without prior communication to the Medicaid Steering Committee and written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Cabinet for Health Services, the recommendations shall be invalid unless:

(1) They are revised to comply with the objections of the committee; or

(2) The committee is informed in writing, in detail, within 30 days of the committee's objections that a determination has been made not to comply with the objections of the committee.

l. Breast and Cervical Cancer Treatment Program: The Department for Medicaid Services shall request a plan amendment from the Centers for Medicare and Medicaid Services to extend coverage to uninsured women who are under age 65, not otherwise eligible for Medicaid, have breast or cervical cancer as diagnosed through a recognized screening program, need treatment for breast or cervical cancer and meet any other eligibility criteria established under the Federal Breast and Cervical Prevention and Treatment Act of 2000. Medical assistance for breast or cervical cancer, or precancerous conditions, shall be limited to treatment until a cure or remission is achieved. Medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under this Act. This program may accept gifts, grants, and bequests in support of its mission and duties specified in this Act. All money received shall be administered by the Cabinet, which shall administer these funds through appropriate trust and agency accounts. The Department for Medicaid Services shall promulgate administrative regulations to implement this program within three months of federal approval of the state plan amendment.

m. Pervasive Developmental Disorders: As used in this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five diagnostic subcategories: (1) Autistic disorder; (2) Pervasive disorder not otherwise specified; (3) Asperger's disorder; (4) Rett's disorder; and, (5) Childhood disintegrative disorder. The Department for Medicaid Services shall make application, within three months of the effective date of this Act, to the Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who: (1) Are Medicaid eligible; (2) Have an Axis I diagnosis of a pervasive developmental disorder; (3) Are institutionalized or at risk for institutionalization; and (4) Require a coordinated plan of medically necessary community-based behavioral health services. The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices. The waiver application shall specify the required credentials for the providers of each service. The Cabinet for Health Services shall capitate the number of children served under the Waiver Program to ensure budget neutrality based upon the expenditures for children with pervasive developmental disorders that were served under the IMPACT Plus Program during fiscal year 2001-2002. The Cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated moneys including but not limited to a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual. The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services. The Department for Medicaid Services shall report by December 1, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes.

n. Supports for Community Living Waiver: Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

26. DEPARTMENT FOR PUBLIC HEALTH

a. Abstinence Education: The Department shall use Federal Funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: 95 percent shall be used for community-based grants to institute abstinence education programs; five percent shall be used to administer and evaluate the effectiveness of the program; and, if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign.

27. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997, as amended by the Benefits Improvements and Protection Act of 2000, in the amount of $36,620,100 in fiscal year 2002-2003 and $37,718,700 in fiscal year 2003-2004.

b. Restricted Funds Carry Forward: Any unbudgeted Restricted Funds which carry forward in fiscal year 2002-2003 or fiscal year 2003-2004 in the Department for Mental Health/Mental Retardation may be used for grants to Community Mental Health Centers.

c. Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders and Dual Diagnoses: Notwithstanding KRS 210.504, the Department for Mental Health/Mental Retardation shall provide at least $12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and Commission activities relating to the mandates of KRS 210.500, 210.502, 210.504, 210.506, and 210.509, through June 30, 2004. The regional planning councils shall make recommendations for, and the Commission shall develop, a two year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and Interim Joint Committee on Health and Welfare by December 1 of each year.

d. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice, and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Kentucky Jailers' Association, Jail Standards Commission, and Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002.

e. Mental Health Consultation and Education to Jails: The Department for Mental Health/Mental Retardation Services shall develop a training curriculum and allocate funds to Regional Mental Health/Mental Retardation Boards for training, consulting with, and educating jailers and jail staff on screening and responding to the needs of individuals with mental illness in jails. The training curriculum shall be based on national best practices and include a model working agreement between a Regional Mental Health/Mental Retardation Board and a jail. The training shall be delivered by Regional Mental Health/Mental Retardation Board staff to jailers and jail staff on screening and responding to the needs of inmates with mental illness. Jailers and each jail staff, except administrative support, shall attend the training the first year of the program or within six months of employment. Remaining funds shall defray costs of the Regional Mental Health/Mental Retardation Board for entering into working agreements with the region's jails for: (1) Delivery of the training curriculum to jailers and jail staff; and (2) Consultation and education on individual inmate's needs to jailers and jail staff in accordance with a working agreement. The specific arrangements in a working agreement shall be based on the needs and capacities of the jail. Treatment services may also be provided for in a working agreement, but the cost of treatment is beyond the scope of this appropriation.

f. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least $233,000 in each fiscal year, absent any pass-throughs to any other entities.

28. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Kentucky Early Intervention System Analysis Reports: The Commission for Children with Special Health Care Needs shall submit a quarterly budget analysis report for the Kentucky Early Intervention Services Program to the Interim Joint Committee on Appropriations and Revenue. The report shall provide the number of children enrolled, the average number of service units by category of service, and the average cost per service, by category of services, and compare actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

29. CERTIFICATE OF NEED

a. Voluntary Relinquishment of a Certificate of Need or Licensure: For 48 months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

30. AGING SERVICES

a. Local Match Requirements: Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health Services to provide essential services under KRS 205.455 and this provision shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

31. JUSTICE ADMINISTRATION

a. Construction Training Program: General Fund moneys appropriated to the Urban League of Lexington-Fayette County Construction Training Program in fiscal year 2002-2003 shall be used to match Federal Byrne Grant Funds. The Secretary of Justice shall supplement the General Fund appropriation with Federal Funds up to a combined total of $300,000 each fiscal year if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. All moneys appropriated that cannot be utilized to match federal grants moneys shall be provided to the Urban League of Lexington-Fayette County Construction Training Program in the form of a grant to continue its activities. The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

b. Contingent upon the passage of enabling legislation relating to the expansion of the Parole Board by the 2003 Regular Session of the General Assembly, the Secretary of the Justice Cabinet shall determine the source and amount of funding necessary to support the expansion for fiscal year 2003-2004 from appropriations otherwise available to the Justice Cabinet for fiscal year 2003-2004. Such funds are hereby appropriated to support that legislation.

32. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, charter county government, consolidated local government, or any combination thereof, to provide 911 emergency telephone service.

b. Boyd County Crime Lab: The crime lab and its operations located in Boyd County, if moved from its current location, shall be relocated within Boyd County.

c. State Police Authorized Strength: The State Police sworn officer, as defined in KRS 16.010, authorized strength is 1,070 and shall be exempt from any personnel cap imposed on other state employees.

33. JUVENILE JUSTICE

a. Juvenile Detention: Madison County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Madison County juvenile detention facility may remain open to hold juveniles from Madison County until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3) and in Part I of this Act.

b. Juvenile Detention: Clark County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Clark County juvenile detention facility may remain open to hold juveniles from Clark County and other counties until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3) and in Part I of this Act.

c. Juvenile Justice Grant: Included in the General Fund appropriations in Part I, Operating Budget, Section H. Justice Cabinet, Juvenile Justice is $35,000 in fiscal year 2002-2003 and $35,000 in fiscal year 2003-2004 to support the Survivor's II Program in Fayette County. General Fund moneys provided for the Survivors II Grant shall not be taken from any moneys or grants that would otherwise be awarded to Prevention Council funds of Lexington-Fayette County nor any other Prevention Council funds and shall come from the Support Services unit of the Juvenile Justice Budget.

d. Gateway Juvenile Diversion Center and Mary Kendall Homes: All general fund appropriations provided in Part I of this Act for the Gateway Juvenile Diversion Center and Mary Kendall Homes shall be allotted and expended exclusively to these respective entities.

34. CORRECTIONS MANAGEMENT

a. Appropriation Adjustments: The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2002-2003 and in fiscal year 2003-2004; community services and local facilities and adult correctional institutions. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written justification to the Interim Joint Committee on Appropriations and Revenue and written concurrence of the State Budget Director. The State Budget Director shall report such adjustments and the necessity of the adjustment to the Interim Joint Committee on Appropriations and Revenue.

b. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol, and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles with mental illness in detention centers. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002. The report shall also be provided to the Jail Standards Commission.

c. Green River Correctional Complex - Fencing: The Department of Corrections shall erect a fence around the minimum security facility at the Green River Correctional Complex.

35. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Probation and Parole Credit: Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354, or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

b. County Jail Housing Per Diem: The county jail per diem for housing state inmates shall be $24.60 upon passage of this Act.

c. Early Release of State Felons: The Governor shall not implement, through Executive Order or otherwise, an early release program for state felons upon passage of this Act.

36. ADULT CORRECTIONAL INSTITUTIONS

a. Educational Services: No General Fund moneys are provided for education services to state inmates upon passage of this Act.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

37. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support, Natural Resources, Environmental Protection, and Surface Mining Reclamation and Enforcement budget units for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. NOx Credits: Within ten days of the Natural Resources and Environmental Protection Cabinet's receipt of U.S. Environmental Protection Agency's approval of a revised State Implementation Plan complying with 40 C.F.R. 51.121 and authorizing the sale of NOx allowances, the Natural Resources and Environmental Protection Cabinet shall notify the Finance and Administration Cabinet. Upon such notification, the Finance and Administration Cabinet shall have the authority to execute the sale of the NOx allowances. The proceeds from the sale shall be credited to the General Fund and deposited into the State Treasury.

38. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Hazardous Waste Fund: Notwithstanding KRS 224.46-580, the Department is authorized to expend up to $25,000 from the Hazardous Waste Management Fund for the purposes of conducting an audit of the sources and amounts of income and expenditures from the fund.

39. DEPARTMENT FOR SURFACE MINING RECLAMATION AND

ENFORCEMENT

a. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have 30 days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

40. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

42. KENTUCKY NATURE PRESERVES COMMISSION

a. Minor Use or Development: Notwithstanding KRS 146.410 to 146.535, the Kentucky State Nature Preserves Commission may allow a minor use or development upon or near the property boundary of a nature preserve when the minor use or development results in the addition of acreage to the preserve, furthers the goal of encouraging land use adjacent to the preserve which can help protect the character of the preserve, furthers an important public purpose identified by another state or local public agency, and does not substantially or fundamentally alter the character of the preserve.

POSTSECONDARY EDUCATION

42. COUNCIL ON POSTSECONDARY EDUCATION

a. Research Challenge Trust Fund Account: The proceeds of the Endowment Match Program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.c., shall be invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Research Challenge Trust Fund and any required matching funds may be expended.

b. Regional University Excellence Trust Fund: The proceeds of the Endowment Match Program authorized in Part II, Capital Projects Budget, under the Council on Postsecondary Education, budget unit, project L.1.d., shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and any required matching funds may be expended.

c. Enrollment Growth and Retention Funding Program: The Council on Postsecondary Education (CPE) shall, by July 1, 2003, develop guidelines for the distribution of Enrollment Growth and Retention Funding Program funds that may be requested during the 2004-2006 biennial budget request process. The CPE shall develop the guidelines in collaboration with the university presidents to ensure a fair and equitable plan for distribution that promotes the implementation of the Postsecondary Education Act of 1997. The guidelines shall be presented to the Strategic Committee on Postsecondary Education (SCOPE) for prior review before the final adoption by CPE.

d. Strategic Investment and Incentive Trust Funds Interest Income: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $6,581,700 shall be transferred from Strategic Investment and Incentive Trust Funds included under these statutes and the trust funds created by 2000 Ky. Acts ch. 549, Part I, L., 56, to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes. Included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I is $100,800 in fiscal year 2002-2003 and $105,500 in fiscal year 2003-2004 for the Minority Student Preparation Program; $187,000 in fiscal year 2002-2003 and $188,400 in fiscal year 2003-2004 for the Southern Regional Education Board Doctoral Scholars Program; $1,000,000 each year of the biennium for the Rural Innovation Program; $1,000,000 in each year of the biennium for the Knowledge-Based Economy Academic Programs; and $2,000,000 in fiscal year 2002-2003 for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program/Science and Engineering Foundation.

e. Kentucky Science and Technology Funding Program: Notwithstanding KRS 164.6027 and 164.6029, included in the General Fund and Restricted Funds appropriations to the Science and Technology Funding Program in Part I, Operating Budget, is $4,521,600 in each year of the biennium for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program and the Science and Engineering Foundation; $3,000,000 in each year of the biennium for the Kentucky Research and Development Voucher Program; $750,000 in each year of the biennium for the Kentucky Commercialization Fund; $500,000 in each year of the biennium for the Regional Technology Corporations and Satellite Innovation and Commercialization Centers; and $1,000,000 in each year of the biennium for the Rural Innovation Program.

f. Lung Cancer Research Fund Interest Transfer: Notwithstanding KRS 164.476, interest earnings up to $300,000 from the Lung Cancer Research Fund may be transferred to the Agency Revenue accounts of the Council on Postsecondary Education to support the Knowledge-Based Economy Academic Program included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I, Operating Budget.

g. Science and Technology Trust Fund: Notwithstanding KRS 164.6019, 164.6027, and 164.6035, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the appropriation in fiscal year 2002-2003 and fiscal year 2003-2004 as necessary from the Council on Postsecondary Education, Science and Technology Funding Program shall be transferred to the Office of the Commissioner for the New Economy within the Cabinet for Economic Development. The Office of State Budget Director shall certify the transfer.

h. Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund accounts: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, the Council on Postsecondary Education may transfer interest earnings from the Strategic Investment and Incentive Trust Fund accounts to the Agency Revenue accounts of the Council, and expend them upon application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

i. Kentucky Science and Technology Corporation: Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the Commissioner for the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

j. Student Financial Aid and Advancement Trust Fund: The Council on Postsecondary Education shall transfer $750,000 in interest income from the Student Financial Aid and Advancement Trust Fund to the Kentucky Higher Education Assistance Authority in fiscal year 2002-2003 to assist in the financing of the Kentucky Educational Excellence Scholarship (KEES) Program.

k. Concept Phase Funding Pool: Notwithstanding KRS 164.6021, the funds appropriated in Part I, Operating Budget, to the Council on Postsecondary Education for the Research and Development Voucher Program may be used to fund the Concept Phase Funding Pool.

l. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the General Assembly.

m. Postsecondary Education Employment Status: Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined under KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

n. Efficient Facilities: The General Assembly directs that the Hunt Morgan Addition and Pharmacy Building Addition endorsed for construction by the Council on Postsecondary Education in its 2002-2004 fiscal biennial budget recommendation to the General Assembly, both being designed for wet lab research and having similar requirements for support facilities that can be shared to maximize research space and operational efficiency, shall be constructed as one building.

43. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

a. Student Loan Corporation: Notwithstanding KRS 164A.240, the Kentucky Higher Education Student Loan Corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.230, provided that the proceeds of the bonds may be used for the educational loan programs and shall not be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020; provided further that the corporation may without further approval finance education loans which are not insured student loans in an aggregate principal amount not exceeding $10,000,000 from the proceeds of any bonds, notes, or lines of credit of the corporation which are primarily secured by insured student loans. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged, and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth. In addition, no bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education; provided that the corporation may without further approval finance education loans which are not insured student loans in an aggregate principal amount not exceeding $10,000,000 from the proceeds of any bonds, notes, or lines of credit of the corporation which are primarily secured by insured student loans. In making the determination of need, the Governor and Legislative Research Commission shall consider the availability of other student assistance resources.

44. EASTERN KENTUCKY UNIVERSITY

a. Capital Renewal and Maintenance Pool: Notwithstanding the provisions of 2000 Ky. Acts ch. 549, Part II, 10., pertaining to eligible projects and matching requirements, and notwithstanding the provisions of Part II, 10., of this Act, pertaining to the matching requirement, $422,000 in bond funds out of Eastern Kentucky University's 2000-2002 Capital Renewal and Maintenance Pool allocation are reauthorized and reallocated for new construction of water lines to provide water service for the Corbin Campus.

45. KENTUCKY STATE UNIVERSITY

a. Non-Federal Matching Requirement: Included in the Restricted Funds appropriation to Kentucky State University in Part I, Operating Budget, is $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 to enable Kentucky State University to fully fund the non-federal matching requirement under the provisions of the Federal Agriculture Research, Extension, and Education Reform Act of 1998. Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, and 164.7925, interest income in the amount of $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 shall be transferred to Kentucky State University by the Council on Postsecondary Education.

46. UNIVERSITY OF KENTUCKY

a. Interest Income: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of $234,800 shall be transferred to the University of Kentucky from the Council on Postsecondary Education in fiscal year 2002-2003.

b. University of Kentucky Center for Rural Health: This facility shall be financed by the issuance of tax-exempt bonds by the State Property and Buildings Commission. Lease-rental payments from the University of Kentucky to the Appalachian Regional Hospital Corporation in the amount of $383,000 per year and lease-rental payments by Hazard Community College to the Appalachian Regional Hospital Corporation in the amount of $145,000 per year provide the fund source of lease-rental payment to the State Property and Buildings Commission for the purpose of providing debt service for bonds to fund the facility. It is recognized that the lease-rental payments by the University of Kentucky and by Hazard Community College to Appalachian Regional Hospital Corporation are necessary to provide the space needs of the University of Kentucky and Hazard Community College until the completion of the new building facility. Therefore, these lease-rental payments are not available for lease-rental payments to the State Property and Buildings Commission for the issuance of the tax exempt bonds to be used to finance the project until the completion of the new building. The Office for Financial Management within the Finance and Administration Cabinet shall work with the Council on Postsecondary Education to provide an interim financing program to allow for the construction of the new facility, without diversion of the lease-rental payments by the University of Kentucky and the Hazard Community College, to the Appalachian Regional Hospital Corporation, and to the State Property and Buildings Commission until such time as the new facility is completed.

c. Ovarian Cancer Screening Outreach Program: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) dollars in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky. The Ovarian Cancer Screening Outreach Program may accept gifts, grants, and bequests in support of its mission and duties. All funds received shall be administered by the University of Kentucky through appropriate trust and agency accounts.

47. UNIVERSITY OF LOUISVILLE

a. Quality and Charity Care Trust Agreement: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of $50,000 shall be transferred to the University of Louisville from the Council on Postsecondary Education in fiscal year 2002-2003 for the Quality and Charity Care Trust Agreement.

48. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

a. Postsecondary Workforce Training Program: Included in the General Fund appropriation to the Kentucky Community and Technical College System in Part I, Operating Budget, is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program. These funds shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College program offerings. Up to $2,100,000 of the Postsecondary Workforce Training Program each year of the biennium may be transferred to the Bluegrass State Skills Corporation within the Cabinet for Economic Development upon a determination by the State Budget Director that other sources of funds are insufficient to meet the employment retention and training needs of the Commonwealth as certified by the Secretary of the Economic Development Cabinet.

b. Land Proceeds: Notwithstanding KRS 45.777, proceeds in the amount of $225,600 for the sale of KCTCS property located at Lincoln Park, 1501 Bland Street, Louisville, Kentucky 40217 to the Jefferson County Public School System shall be retained by KCTCS for Jefferson Community College.

PUBLIC PROTECTION AND REGULATION

49. BOARD OF CLAIMS

a. Notwithstanding KRS 216B.400, in fiscal year 2003-2004 examinations for reported victims of sexual assault shall be paid by the Crime Victims' Compensation Board in a manner consistent with KRS Chapter 346, at a rate determined by the Board. The Board shall reimburse the hospital or sexual assault examination facility as provided in administrative regulations promulgated by the Board.

50. KENTUCKY RACING COMMISSION

a. Notwithstanding KRS 230.374, 50 percent of the funds collected by the Kentucky Racing Commission under the provisions of KRS 230.361 to 230.373 shall be transferred to the Kentucky Racing Health and Welfare Fund, Inc., prior to the end of fiscal year 2002-2003 and fiscal year 2003-2004; however, no payments shall be made by the Commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the Commission and the Auditor of Public Accounts are satisfied that the fund is in all respects being operated for the charitable and benevolent purposes as set forth in KRS 230.374 and that no part of the funds paid to the fund by the Commission or any net earnings of the fund inure to the benefit of any private individual, director, officer, or member of the fund or any of the persons who turned over sums to the Commission representing unclaimed pari-mutuel tickets.

b. Effective July 1, 2003, fees set by 810 KAR 1:025 for individual licenses issued by the Kentucky Racing Commission shall be returned to the amounts assessed immediately prior to fiscal year 2001-2002.

51. DEPARTMENT OF INSURANCE

a. Risk-based Capital: A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with risk-based capital (RBC) requirements as follows: (1) For purposes of this subsection, risk-based capital shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with 806 KAR 38:100; (2) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows: (a) "Company Action Level RBC" means the product of two and its Authorized Control Level RBC; (b) "Regulatory Action Level RBC" means the product of one and five-tenths and its Authorized Control Level RBC; (c) "Authorized Control Level RBC" means the product of four-tenths and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and (d) "Mandatory Control Level RBC" means the product of seven-tenths and the Authorized Control Level RBC; and (3) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this paragraph and 806 KAR 38:100 and shall not be eligible to calculate its risk-based capital according to this subsection.

52. PUBLIC ADVOCACY

a. Compensatory Leave Conversion to Sick Leave: In the event that the Department of Public Advocacy has determined that a budget shortfall may occur, the Public Advocate is authorized to institute a policy to suspend payment of 50 hours of compensatory leave and convert these hours to sick leave for those Attorneys who have accumulated 240 hours of compensatory time.

53. OFFICE OF THE SECRETARY-GENERAL OPERATIONS

a. Funds lapsed in Part V in fiscal year 2002-2003 shall not be replaced through additional administrative fees assessed the agencies.

REVENUE CABINET

54. REVENUE

a. Sales Tax on Communications Services: Notwithstanding of KRS 139.505, all applicants filing on or after June 1, 2003, for the refundable credit for sales tax paid on communications services shall comply with the following: any business whose interstate communications services, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if the business's annual Kentucky gross receipts are equal to or more than $1,000,000, and the majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.

The refundable credit shall be equal only to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent of the business's Kentucky gross receipts.

To facilitate the administration of the refundable tax credit, the Revenue Cabinet shall grant eligible businesses which apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds of the tax paid on communications service shall not include any sales tax collected and paid by a communications service provider to the Cabinet.

b. Deduction for Taxes Paid to Foreign Countries: Notwithstanding KRS 141.010(11)(a), effective for taxable years beginning after December 31, 2002, the deduction for taxes paid to foreign countries is not allowable.

c. Natural Gas Distribution Services: Notwithstanding KRS 139.100, effective June 1, 2003, the furnishing of natural gas or electric distribution services or natural gas or electric transmission or transportation services shall be retail sales subject to sales and use tax except for the furnishing of those services to residential customers as defined in KRS 139.470(8).

TOURISM DEVELOPMENT CABINET

55. TAX CREDIT PROGRAM

a. Tax Credit Program: Notwithstanding KRS 148.855, the independent consulting firm shall consult with the Tourism Development Finance Authority, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the Authority, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify to the Authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

Notwithstanding KRS 148.859(1)(a), any increase in approved costs incurred by the approved company and agreed to by the Authority shall apply retroactively for purposes of calculating the carryforward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004. Notwithstanding KRS 148.859(1)(c), the term shall be ten years from the later of the date of final approval of the project or the original completion date specified in the agreement, if this completion date is within three years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement of the term and, notwithstanding KRS 148.859(1), upon request from an approved company that has completed at a minimum 50 percent of an entertainment destination center, the Authority shall grant an additional extension or change to that provided in KRS 148.859(1)(b), of up to three years, which in no event shall exceed six years from the date of final approval, to the completion date as specified in the agreement of the approved company, provided that:

(1) The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

(2) The term of the agreement shall not be extended; and

(3) The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

56. STATE FAIR BOARD

a. Bond Authority: The Kentucky State Fair Board is authorized to issue up to $52,000,000 in revenue bonds provided agency revenue can be identified in an amount sufficient to support debt service payments.

TRANSPORTATION CABINET

57. CABINETWIDE

a. Biennial Highway Construction Programs: The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2004-2005 through fiscal year 2007-2008 as identified by the 2002 General Assembly. This document shall mirror in data type and format the fiscal year 2002-2008 Recommended Six Year Highway Plan as submitted to the 2002 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2003 Regular Session of the General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2002-2004 Road Fund resources for a project designated as a State Project in the fiscal year 2004-2005 through fiscal year 2007-2008 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission of all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2), any project additions or modifications that the 2002 General Assembly may make to the fiscal year 2002-2008 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2002-2008 Recommended Six Year Road Plan as submitted by the Executive Branch.

58. AIR TRANSPORTATION

a. Bluegrass Field Airport: No appropriations to the Air Transportation Budget shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

b. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the 12-month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

59. PUBLIC TRANSPORTATION

a. Federal Transit Administration Match: Included in the fiscal year 2002-2003 Restricted Fund appropriation is $1,650,000 to match Federal Transit Administration discretionary capital grants to purchase buses and vans for public transit entities. To the extent that these Restricted Funds are not necessary to match additional Federal Funds for the Federal Transit Administration discretionary capital grants for buses and vans, the Restricted Funds shall revert to the Capital Construction and Equipment Purchase Contingency Account at the close of fiscal year 2003-2004.

b. Human Services Transportation Delivery Program: Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870, 281.872, 281.873, 281.874, 281.875, 281.876, 281.877, 281.878, and 281.879.

60. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional Federal Funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (1) Any demonstration-specific or project-specific money shall be used on the project identified; and (2) All other funds shall be used to insure that projects in the 2002-2004 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four Year Preconstruction Program.

d. Demonstration Projects: The Transportation Cabinet is authorized to select up to five design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Prefinancing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2002-2004 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided. The Transportation Cabinet shall maintain a minimum Road Fund cash management target of $100,000,000. The Secretary may seek approval to spend Road Fund moneys below $100,000,000 by submitting a recommended spending plan to the Secretary of Finance and Administration Cabinet for approval. A copy of the approved spending plan shall be transmitted to the Interim Joint Committee on Appropriations and Revenue.

f. Miscellaneous Road Fund Expenditures: A turning lane shall be constructed at KY 1958 and the New Retirement Center in Clark County. The cost related to the construction of the turning lane shall be funded from Road Fund resources.

Luminaries shall be installed at South Williamson to KY 308 in Pike County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of 55th Street and US 23 in Boyd County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of US 421 and US 62 in Woodford County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

Two flashing school zone lights shall be installed for Fairview High School. The cost related to the installation shall be funded from Road Fund resources. The cost to operate the lights shall be the responsibility of the Boyd County Fiscal Court.

Guardrails shall be installed at the following locations: KY 32 from the Rowan/Elliott County Line to the Junction of KY 32 and KY 7; KY 1620 between MP 2 and MP 4 in Elliott County; KY 1426 between MP 8.263 and MP 8.819 in Floyd County; KY 1231 between MP 2.6 and MP 4.6 in Knott County; KY 1697 between MP 1.7 and MP 3.7 in Knott County; KY 550 between MP 16.8 and MP 18.0 in Knott County; KY 582 between MP 7.9 and MP 10.3 in Knott County; and KY 3419 between MP 9.509 and MP 12.014 in Pike County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Directional signs to the Aviation Museum of Kentucky shall be installed on US 60 near the intersection of Man-of-War and US 60 in Fayette County. The cost related to the installation of the signs shall be funded from Road Fund resources.

The Transportation Cabinet shall resurface KY 181 from MP 5.8 to MP 10.5 in Muhlenburg County. The costs related to the resurfacing of KY 181 shall be funded from the maintenance account.

The Transportation Cabinet shall resurface KY 1002 from MP 0.638 to MP 1.1 in Wolfe County. The costs related to the resurfacing of KY 1002 shall be funded from the maintenance account.

The Transportation Cabinet shall establish KY 1336 as an access point to the relocated new KY 11 in the Community of Tilton.

Spot improvements shall be made at the intersection of KY 550 and KY 1103 in Knott County to increase site distance. The cost related to the spot improvements shall be funded from Road Fund resources.

Sight distance improvements shall be made from the intersection of KY 645 and KY 581 in Lawrence County extending 2,000 feet south along KY 581 towards Paintsville. The cost related to the sight distance improvement shall be funded from Road Fund resources.

Any entrance or access used for residential purposes in existence as of February 1, 2003 off Highway 60 in Clark County northeast of Winchester shall be deemed to be a legal entrance.

The Transportation Cabinet shall extend access by permit about 1,500 feet north of KY 911 along the proposed US 41A project in Christian County.

The Transportation Cabinet shall amend the FB 2002-04 Biennial Highway Construction Plan to direct the following:

(1) Funding for project number 3-8100 in Allen County be revised to SP;

(2) Project Number 6-8100 in Bracken County be revised to read as follows: Planning Study for reconstruction of KY-10 from Brooksville to Germantown;

(3) Funding for project number 4-8100 in Breckinridge County be revised to SP;

(4) Insert project number 1-8103 in Graves County to read as follows: Scoping study for widening and reconstruction of KY 131 from KY 80 to KY 348 at Symsonia-Design-SP-$200,000-fiscal year 2002-2003;

(5) Project number 2-134 in Muhlenberg County be revised to read as follows: Construct new interchange on the Western Kentucky Parkway ($500,000 of coal severance tax money has been earmarked for this project)-Construction-SP-$3,800,000-fiscal year 2002-2003;

(6) Insert project number 2-8106 in Muhlenberg County to read as follows: Scoping Study for safety improvements on US 431 from the McLean/Muhlenberg County line to the Tennessee Border (Phase 1) and Scoping study for safety improvements on US 431 from the McLean/Muhlenberg County line to the Indiana Border (Phase 2)-Design-SP-$300,000-fiscal year 2002-2003;

(7) Project number 2-8102 in Union County to be revised to read as follows: Planning study to construct four lanes on US 60 from Sturgis to Morganfield;

(8) Funding for project number 2-8103 in Webster County be revised to SP; and

(9) Funding for project number 2-8105 in Webster County be revised to SP.

A stop light and turning lane shall be installed at US 31W at Dart Container World in Hart County. The cost related to the installation of the stop light and turning lane shall be funded from Road Fund resources.

Bloomington Road shall be resurfaced from MP 0.0 to MP 2.0 in Grayson County. The cost related to the resurfacing of the road shall be funded from Road Fund resources.

The Transportation Cabinet shall build and surface two and forty-five one hundredths miles of the Brammer Hill-Delta Road (County Road 1030) in Wayne County. The cost related to building and surfacing the road shall be funded from Road Fund resources.

The Transportation Cabinet shall repave one and six-tenths miles of the Paint Creek Road beginning at the juncture of KY 92 W and the Tacket Creek Road shall be repaved from the juncture of Sevoy Clear Creek Road South in Whitley County. The cost related to the repaving shall be funded from Road Fund resources.

Traffic lights shall be installed at the following locations: on US 60 at the Olive Hill Elementary School entrance east of Olive Hill in Carter County; South Dixie Fire Department on US 31W at Valley Station in Jefferson County; at the intersection of KY 490 and US 25 in Laurel County; at the intersection of KY 68 and Warehouse Drive in the City of Lebanon in Marion

County; at the intersection of AA Highway and KY 57 in Mason County; and at the intersection of US 42 and Ridgemoor Drive in Oldham County. The cost related to the installation of the traffic lights shall be funded from the Road Fund resources.

Bridges shall be reconstructed at the following locations: Roaring Paunch Creek Bridge, off KY 1470 on Kingtown Road in McCreary County; Old Sano Road Bridge two miles north of KY 80 in Russell County; Dry Hollow Road Bridge (County Road 1213) in Wayne County; Verne Road Bridge near the junction of Verne Road with KY 1064 in Whitley County; and Keswick Road Bridge in Whitley County. The cost related to the reconstruction of the bridges shall be funded from Road Fund resources.

Guardrails shall be installed at the following locations: Green Briar Road beginning 2 miles east and ending eight miles east of KY 615 in Adair County; Milltown Road (KY 768) one and two-tenths miles north of KY 61 in Adair County; Elmore Hill Road one-tenth of a mile south of KY 70 in Casey County; Thomas Ridge Spur one-tenth of a mile east of KY 910 in Casey County; Patsy Riffe Ridge two-tenths of a mile east of KY 127 in Casey County; Dishman Springs Road in Barbourville from Helton Branch Road to Emanuel Road in Knox County; Parrot Hollow Road from MP 2.386 to MP 3.225 in Knox County; Artemus/Flat Lick Road from MP 1.1 to MP 1.336 in Knox County; on the left side of KY 1003 one mile east of KY 80 in Pulaski County; and on the left side of KY 1003 four miles east of KY 80 across Buck Creek Bridge in Pulaski County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Street signs shall be replaced throughout the City of Edgewood in Kenton County. The cost related to replacing the street signs shall be funded from Road Fund resources.

Road improvements shall be made along US 29 from the Railroad Bridge to Lexington Road in Jessamine County. The cost related to the road improvements shall be funded from Road Fund resources.

A sound barrier shall be installed on the north side of Watterson Expressway from the west side of the Newburg Interchange going 1,000 feet west.

A sound barrier shall be installed on I-64 for the St. Regis neighborhood. The cost related to the installation of the sound barrier shall be funded from Road Fund resources.

Luminaries shall be installed on KY 11 from the Main Street Intersection going north in Owsley County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A traffic study shall be conducted of the intersection of US 60 and Carroll Road in Clark County. The cost of the study shall be funded from Road Fund resources.

Signs designating the location of the St. John's School shall be installed on US 45 in McCracken County. The cost related to the installation of the signs shall be funded from Road Fund resources.

Provide Road Fund support for the installation of the Douglas Avenue Bridge over Bacon Creek in Whitley County.

g. Location of proposed I-66: The location of proposed I-66 in the South Central Kentucky Area shall be limited to alternative highway corridors extending from the Cumberland Parkway to the Natcher Parkway north of the City of Bowling Green.

h. Toll Road Facilities: If Federal Funds become available to the state to support the retirement of toll roads debt, then each affected toll road facility within the Commonwealth shall close and all affected toll road employees shall be reassigned within the Transportation Cabinet.

i. Demonstration Project: The Transportation Cabinet shall request a waiver from the Federal Highway Administration to establish a demonstration project that uses pigmented binder materials in the construction of school crosswalks in Hardin County.

61. VEHICLE REGULATION

a. Motorcycle Education Program: Notwithstanding KRS 186.890(1) and (2), all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. No administrative costs for other programs or budget units within the Transportation Cabinet shall be deducted from the Motorcycle Safety Education Program. The Transportation Cabinet shall report biennially to the Interim Joint Committee on Appropriations and Revenue of the revenues deposited to the Fund, the expenditures incurred, and available balances. In addition, the Cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees.

62. GENERAL ADMINISTRATION AND SUPPORT

a. Adopt-A-Highway Litter Program: The Transportation and Natural Resources and Environmental Protection Cabinets may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

b. Transportation Cabinet Office Building: The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

WORKFORCE DEVELOPMENT CABINET

63 GENERAL ADMINISTRATION AND PROGRAM SUPPORT

a. Maintenance Pool: Included in the Capital Budget appropriation is Investment Income Funds totaling $395,000 in fiscal year 2002-2003 and $394,600 in fiscal year 2003-2004 for a cabinetwide maintenance pool.

64. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2002-2004 fiscal biennium.

b. Area Technology Centers: General Fund dollars for operations and equipment and SEEK dollars for the state-run vocational schools are maintained at current levels.

65. DEPARTMENT FOR VOCATIONAL REHABILITATION

a. Personnel Cap: A personnel cap of 504 positions (484 full time, 19 part time, and one interim) is authorized.

b. Debt Service: Included in the General Fund appropriation is $30,000 debt service to support Bond Funds totaling $265,000 to construct a sewage treatment plant at the Carl D. Perkins Rehabilitation Center.

66. DEPARTMENT FOR EMPLOYMENT SERVICES

a. Facility Replacement and Renovation Program: The General Assembly authorizes the Department to develop and implement a Facility Replacement and Renovation Program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease-rental properties.

Proceeds from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Additionally, funds received from the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the purpose of acquiring property and constructing a building and such improvements, facilities, paving, landscaping, and fixed equipment as may be required for use by the Cabinet for Workforce Development. Expenditures authorized by this provision are limited to the use of funds derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and national government, and funds received from the Reed Act distribution.

b. Operating Costs and Mobile Vehicle: Additionally, Reed Act distribution may be used for continued operating costs at the Department for Employment Services facilities as well as for the acquisition and equipping of a mobile vehicle for use in providing timely on-site deployment of services to remote locations or to meet extraordinary service requirements subject to applicable statutory and regulatory requirements of the Commonwealth.

The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Any project estimated to cost over $400,000 and any mobile vehicle costing more than $100,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2002-2003 and 2003-2004. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance are appropriated to the Budget Reserve Trust Fund established in KRS 48.705.

2. The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of fiscal year 2002-2003, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for the Budget Reserve Trust Fund pursuant to the Plan in fiscal year 2003-2004.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2002, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for the Budget Reserve Trust Fund in fiscal year 2002-2003 pursuant to the Plan.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2002-2003 is $125,407,000 and in fiscal year 2003-2004 is $109,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. Early Childhood Development Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated for Early Childhood Development Initiatives as specified below.

b. Health Care Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

c. Agricultural Development Initiatives: Fifty percent of the MSA payments received in fiscal year 2002-2003, estimated to be $62,800,000, and in fiscal year 2003-2004, estimated to be $54,550,000, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

A. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Governor's Office of Agricultural Policy	47,688,000	39,434,000

Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is $611,200 in fiscal year 2002-2003 and $513,300 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund. Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is up to $1,600,000 in fiscal year 2002-2003 and $1,600,000 in fiscal year 2003-2004 for the University of Kentucky Cooperative Extension Service to support the cost of providing a one-time bonus in each fiscal year for county extension agents in addition to any salary adjustments which may be made.

Notwithstanding KRS 248.703(2)(b)1., and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

2. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
Debt Service	6,112,000	6,116,000

To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be transferred from those accounts to the appropriate account of the General Fund to fully fund the aggregate debt service obligation of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

3. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
Natural Resources	9,000,000	9,000,000

These funds are appropriated for the Environmental Stewardship Program within the Department for Natural Resources.

TOTAL AGRICULTURAL APPROPRIATIONS	62,800,000	54,550,000

B. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Governor's Office of Early Childhood Development	2,188,400	2,188,400

2. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2002-03	2003-04
Community Based Services	7,262,800	3,581,300

Included in the above appropriation is $7,023,300 in fiscal year 2002-2003 and $3,023,300 in fiscal year 2003-2004 for the Early Childhood Development Program, and $239,500 in fiscal year 2002-2003 and $558,000 in fiscal year 2003-2004 for Child Advocacy Centers. Phase I Tobacco Settlement funds totaling $4,000,000 in fiscal year 2002-2003 shall not be expended, but shall carry forward into fiscal year 2003-2004 to sustain operations of fully implemented child care programs. These represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

3. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	18,598,800	18,155,300

Included in the above appropriation is $11,948,800 in each fiscal year for the HANDS Program; $2,200,000 in fiscal year 2002-2003 and $2,010,300 in fiscal year 2003-2004 for Healthy Start initiatives; $2,000,000 in each fiscal year for Universal Children's Immunizations; $1,200,000 in fiscal year 2002-2003 and $946,200 in fiscal year 2003-2004 for the Folic Acid Program; $1,000,000 in each fiscal year for Early Childhood Mental Health; and $250,000 in fiscal year 2003-2004 for Early Childhood Oral Health. Also included in the above appropriation is $250,000 in fiscal year 2002-2003 to be transferred to the General Fund. Additionally, $543,500 in Phase I Tobacco Settlement funds is budgeted to continue from fiscal year 2001-2002 into fiscal year 2002-2003 and from fiscal year 2002-2003 into fiscal year 2003-2004 to sustain operations of the fully implemented Healthy Start ($289,700) and Folic Acid ($253,800) Programs. These amounts represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

Budget Unit	2002-03	2003-04
Mental Health and Mental Retardation	1,000,000	1,000,000
Children with Special Health Care Needs	1,600,000	1,600,000

Included in the above appropriation is $550,000 in each fiscal year for Universal Newborn Hearing Screening; $50,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

4. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Kentucky Higher Education Assistance Authority	557,000	750,000

Included in the above appropriation is $557,000 in fiscal year 2002-2003 and $750,000 in fiscal year 2003-2004 for Early Childhood Scholarships.

TOTAL EARLY CHILDHOOD APPROPRIATIONS	31,207,000	27,275,000

C. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Kentucky Agency for Substance Abuse Policy	2,574,800	2,236,600

Notwithstanding KRS 12.330, included in the above appropriation is $844,100 in fiscal year 2002-2003 and $489,300 in fiscal year 2003-2004 which shall be transferred to the Endowment Fund. This Endowment Fund shall be created as a Restricted Funds account in the state accounting system. Included in the above appropriation is $225,000 each fiscal year to be transferred to the Department for Public Health for operating costs associated with the upgrade of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system. Included in the above appropriation is $1,500,000 in fiscal year 2002-2003 and

$1,500,000 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund.

2. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	3,140,000	2,727,500

These funds are appropriated for the Smoking Cessation Program within the Department for Public Health.

3. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Council on Postsecondary Education	6,280,000	5,455,000

These funds are appropriated for the Lung Cancer Research Program within the Council on Postsecondary Education.

4. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
Department of Insurance		
General Operations	19,405,200	16,855,900

These funds are appropriated for the Kentucky Access Program.

	2002-03	2003-04
TOTAL HEALTH CARE APPROPRIATIONS	31,400,000	27,275,000

	2002-03	2003-04
TOTAL PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	125,407,000	109,100,000

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2002-03	2003-04
General Fund - Tobacco	125,407,000	109,100,000
General Fund	6,845,805,500	7,067,386,100
Restricted Funds	3,595,173,900	3,669,246,800
Federal Funds	5,533,885,800	5,394,917,200
Road Fund	1,115,289,400	1,131,926,500
Subtotal	17,215,561,600	17,372,576,600

CAPITAL PROJECTS BUDGET

		2002-03	2003-04
General Fund	100,000	400,000	
Restricted Funds		771,665,816	234,171,675
Federal Funds	79,719,000	8,866,000	
Bond Funds	341,102,000	10,602,992	
Road Fund		5,840,000	8,284,000
Agency Bonds	156,750,000	0	
Capital Construction Surplus		2,540,000	319,000
Investment Income		18,594,000	15,100,000
Deferred Maintenance		957,000	0
Other Funds	108,918,000	2,700,000	
Emergency Repair, Replacement and Maintenance		0	500,000
Capital Construction Contingency		800,000	0
Subtotal		1,486,985,816	280,943,667

TOTAL-STATE/EXECUTIVE BUDGET

	2002-03	2003-04
General Fund - Tobacco	125,407,000	109,100,000

General Fund	6,845,905,500	7,067,786,100	
Restricted Funds		4,366,839,716	3,903,418,475
Federal Funds	5,613,604,800	5,403,783,200	
Road Fund		1,121,129,400	1,140,210,500
Bond Funds	341,102,000	10,602,992	
Agency Bonds	156,750,000	0	
Capital Construction Surplus		2,540,000	319,000
Investment Income		18,594,000	15,100,000
Deferred Maintenance		957,000	0
Other Funds	108,918,000	2,700,000	
Emergency Repair, Replacement, and Maintenance		0	500,000
Capital Construction Contingency		800,000	0
TOTAL FUNDS		18,702,547,416	17,653,520,267

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

The Committee Amendment No. 1 to **HB 269** is as follows:

HB 269, Governor's Office for Technology

On Page 208, Delete Line 27 and On Page 209, Delete Lines 1 through 4.

On Page 208, After Line 26, Insert the Following:

"b. Electronic Health Network – Feasibility Study: The Interim Joint Committee on Health and Welfare of the Legislative Research Commission is directed to study the feasibility of implementing an electronic health network in the Commonwealth. The Telehealth Board is directed to assist in the study by using its expertise to develop, at the direction of and in consultation with the committee, a work plan to provide the committee with the information necessary to carry out this study. The Telehealth Board shall prepare a draft feasibility study work plan to present to the Interim Joint Committee at its October 2003 meeting. The Interim Joint Committee on Health and Welfare shall meet on its regularly scheduled day in October to receive and consider the draft feasibility study work plan. Upon approval of the draft feasibility study work plan by the committee, the Interim Joint Committee on Health and Welfare shall report its findings and recommendations to the Legislative Research Commission. The report shall be made no later than December 1, 2003. The Interim Joint Committee on Health and Welfare may prepare legislation for consideration by the 2004 General Assembly.

The study shall include a review of various models and comparative business cases. Each model considered shall be capable of supporting administrative transactions and clinical electronic health applications, including the capability to integrate an electronic Medicaid management information system. The study shall include an analysis of projected costs and how those would be allocated among various payors, options for financing the network, projected returns on investments, a timetable for those returns, any proposed subscriptions or transactions fees, and a timetable for implementation. The study shall include the analysis of at least one model implemented in phases.

The board may appoint an electronic health committee made up of persons who are not members of the board and who have expertise in health informatics, health insurance, computer technology, and physician practice management to provide input into the work plan, study, and reports provided to the Interim Joint Committee on Health and Welfare. To assist with the feasibility study, the Telehealth Board administered by the Governor's Office for Technology may receive federal and voluntarily contributed private funds."

The Committee Amendment No. 2 to **HB 269** is as follows:

HB 269, Lottery Corporation

Part III

On page 182, line 14, delete "6,000,000" and insert "3,000,000";

On page 182, line 17, delete "6,000,000" and insert "3,000,000 but less than $6,500,000 shall be transferred to the General Fund, and any amount in excess of $6,500,000".

The Committee Amendment No. 3 to **HB 269** is as follows:

HB 269, On page 2, line 1, by deleting "1,681,000" and inserting "1,931,000" in FY 2002-2003 and adjusting subsequent subtotals and totals accordingly;

On page 8, line 27, by deleting "19,464,900" in FY 2003-2004 and inserting "19,484,900";

On page 9, line 3, by deleting "25,168,700" in FY 2003-3004 and inserting "25,188,700" and by adjusting subtotals and totals accordingly;

On page 28, by deleting lines 19 through 21 in their entirety;

On page 54, line 10, by deleting "13,222,000" and inserting "14,972,000";

On page 64, line 7, by deleting "11,243,500" in FY 2002-2003 and "11,243,500" in FY 2003-2004 and inserting "11,527,900" in FY 2002-2003 and "11,752,100" in FY 2003-2004;

On page 64, line 10, by deleting "14,027,300" in FY 2002-2003 and "11,539,700" in FY 2003-2004 and inserting "14,311,700" in FY 2002-2003 and "12,048,300" in FY 2003-2004 and adjusting subtotals and totals accordingly;

On page 84, between lines 1 and 2 by inserting the following:

" c. New Economy High-Tech Investment/Construction Pool

Restricted Funds 10,000,000 5,000,000

The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High Tech Construction Pool." and adjusting subsequent subtotals and totals accordingly;

On page 93, after line 21, insert the following:

" o. High Voltage Electrical Distribution System

Restricted Funds 10,500,000" (FY 2002-03);

On page 94, line 23, by deleting "3,000,000" and inserting "3,800,000";

On page 96, line 22, by deleting "902,600" and inserting "920,600";

On page 102, line 21, after "Hall" by inserting "Renovation";

On page 102, line 22, by deleting "Agency Bonds" and inserting "Restricted Funds" and by deleting "1,750,000" and inserting "2,500,000";

On page 132, line 23, by deleting "11,320,000" and inserting "7,000,000";

On page 132, after line 25, by inserting:

" m. Materials Characterization Center

Restricted Funds 3,000,000

n. Student Parking Structure

Restricted Funds 10,000,000" (FY 2002-03);

On page 164, after line 5, by inserting the following and renumbering accordingly:

" 288. Owsley County Fiscal Court - Sewer Lines

Restricted 250,000" (FY 2002-2003);

On page 167, after line 1, by inserting:

"Rockcastle County

323. Reauthorize "Match for Appalachia Community Initiative" and Redirect to Rockcastle County Industrial Authority for Land Acquisition and Job Creation or Expansion

(Restricted Funds - $245,000)"

and renumbering subsequent items accordingly;

On page 171, after "7." by deleting the remainder of that line and lines 2 through 7;

On page 172, line 20, after "Education", insert the following "Fire/ Life Safety/ Infrastructure Agency Bond Pool and the Renovations/ Infrastructure/ New Construction";

On page 172, line 20, after "Pool" the second time it appears by deleting "and Capital Renewal and";

On page 172, line 21, by deleting "Maintenance Pool";

On page 174 after line 22, by inserting the following:

"16. It is the intent of the General Assembly that the Council on Postsecondary Education, in consultation with the conference of presidents, identify projects for funding from the Council's Agency Bond Pool(s). The highest priority should be afforded those projects which address the Commonwealth's commitment to the Partnership agreement with the Office for Civil

Rights, student housing fire safety, and other life safety projects. Any unused authority should be used to address renovations, infrastructure, and new facilities. The Council on Postsecondary Education shall report disbursements from the Agency Bond Pool to the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Education, the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee.";

On page 182, line 7, after "2002" by inserting "or 2003";

On page 187, line 9, by deleting "calendar year 2002 and";

On page 188, line 4, after "KRS 45.229", by inserting ", except General Fund amounts which are appropriated for fiscal year 2003-2004";

On page 188, line 12, after "1995." by inserting "The Governor shall direct all agencies of the Executive Branch, including constitutional officers, as to the number to be reduced in each agency.";

On page 188, line 14, after "2002." by inserting "The Governor shall direct all agencies of the Executive Branch, including constitutional officers, as to the number to be reduced in each agency.";

On page 188, line 17, after "e.", by inserting the following:

"Notwithstanding any other provision of law, the Governor shall have the authority to direct that departments headed by constitutional officers participate in the reduction of principal assistants and unclassified employees as provided in this Act.

f.";

On page 189, line 2, by deleting "for" and inserting "relating to";

On page 189, line 5, by deleting "such" and "as";

On page 189, line 12, after "not", by inserting "expend or";

On page 191, line 9, after "3." insert "Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of two and seven-tenths percent is provided in fiscal year 2002-2003 on the base salary or wages of each eligible state employee on their anniversary date.";

On page 191, line 16, delete "$11,200,000" and insert "$11,490,000";

On page 195, between lines 9 and 10, by inserting the following:

"1. Office of the Governor 250,000

Agency Revenue Funds" (FY 2002-2003) and by renumbering and adjusting totals as necessary;

On page 197, line 19, by deleting "314.456" and inserting "314.027 and 314.161";

On page 206, line 7, by deleting "$6,916,450,000" and inserting "$6,989,900,000";

On page 206, line 8, by deleting "$7,149,750,000" and inserting "$7,158,000,000";

On page 230, between lines 8 and 9, by inserting the following:

" c. Funds Transfer: The Cabinet for Families and Children shall transfer a total of $4,000,000 in Restricted Funds in fiscal year 2003-2004 to the Department for Medicaid Services to expand the Supports for Community Living Program.";

On page 231, between lines 23 and 24, by inserting the following:

" b. Funds Transfer: The Cabinet for Families and Children shall transfer a total of $4,000,000 in Restricted Funds in fiscal year 2003-2004 to the Department for Medicaid Services to expand the Supports for Community Living Program." and renumber subsequent sections accordingly;

On page 244, line 17, after "$300,000", by deleting "each fiscal year" and inserting "in fiscal year 2002-2003";

On page 275, line 3, after "funds" by inserting "in excess of those appropriated in this Act"; and making all necessary adjustments to subtotals and totals and numbering of divisions, subdivisions, items, and projects to reflect changes required by this amendment and all other adopted committee and floor amendments.

Calendar

HR 51, HB 224, 252, 271, 275, 279, 320, 341, 360, 376, HCR 45, HB 25, 57, 112, 121, 191, 225, 251, 287, 369, 379, 388, 250, 268, 365, 366, 263, and **265** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Graham moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 30**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Holly Gilpin State FFA President a native of Green County and student at Western Kentucky University, on behalf of the more than 600 student leaders representing the Career and Technical Education Student Organizations in high schools, area technology centers, technical and community colleges and public universities throughout this Commonwealth who traveled to Frankfort today to mark Career and Technical Education Week with Student Organization Leadership Day by attending the Leadership Conference at Frankfort High School and visiting the Capitol to meet with their state representatives and senators; to encourage the viewing of the exhibits of outstanding programs representing each of the CTSO's displayed on the Capitol Mezzanine; and to view the proceedings of the 2003 Regular Session of the Kentucky General Assembly. The members of this honorable body are delighted to join with Representative Derrick W. Graham in praising Ms. Gilpin for her laudable representation of and contributions to this outstanding event which is designed as a complement to Kentucky's academic goals and learning expectations and which enhances the leadership skills of young citizens throughout this great Commonwealth whose career goals are vital to Kentucky's economy and in extending warmest wishes for continued success and good fortune to her as well as to each of these young leaders present today. Done in Frankfort, Kentucky, this thirteenth day of February, in the year two thousand and three.

Legislative Citation No. 30 was adopted without objection.

Orders of the Day

HJR 13 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HJR 13** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 13, 2003, roll call on **HJR 13** - Appendix.)

HJR 13 was adopted and the title agreed to.

Representative Marzian moved that the vote by which **HJR 13** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 28 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HJR 28** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 13, 2003, roll call on **HJR 28** - Appendix.)

HJR 28 was adopted and the title agreed to.

Representative Denham moved that the vote by which **HJR 28** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 237 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HB 237** be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See February 13, 2003, roll call on **HB 237** - Appendix.)

HB 237 was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 237** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 242, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 242** be returned to and retain its position in the Orders of the Day. Agreed.

HB 296, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **HB 296**. Agreed.

Representative Wayne moved that **HB 296**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 13, 2003, roll call on **HB 296** - Appendix.)

HB 296, as amended, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 296**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 154 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HB 154** be passed.

On the roll call the vote was: **Yeas 91, Nays 7**. (See February 13, 2003, roll call on **HB 154** - Appendix.)

HB 154 was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 154** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 219, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 219**. Agreed.

Representative J. Lee moved that **HB 219**, by way of Committee Substitute, be passed.

Representative Crimm moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 219**. Agreed.

Floor Amendment No. 2 to the Committee Substitute to **HB 219** was defeated by voice vote.

Representative J. Lee moved that **HB 219**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 13, 2003, roll call on **HB 219** - Appendix.)

HB 219, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 219**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved to waive the posting requirement on **HB 461**. Agreed.

Representative Stumbo moved that **HB 241** be recommitted to the Committee on Labor and Industry. Agreed.

Representative Stumbo moved that **HB 269, HB 294, HJR 83,** and **HJR 82** be taken from the Committee on Rules and reported to the House Floor. Agreed.

Motions, Petitions, and Communications

Representative Barrows moved that **HB 269** be recommitted to the Committee on Appropriations and Revenue.

The Speaker announced that the House would recess.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (Continued)

Representative Bruce moved the adoption of the following **Legislative Citation No. 29.**

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Peggy Porter upon her 50th Birthday In celebration of this memorable event, the entire membership is pleased to join Representative Jim Bruce in commending Ms. Porter, who serves as the Legislative Director of Independent Insurance Agents and who resides in Louisville, Kentucky, with her cherished husband, Mike, the Executive Vice President of the Kentucky Dental Association, for a life lived to the fullest and for the vitality of spirit which has brought her thus far. This distinguished body hereby extends best wishes to this highly-regarded recipient on the meaningful occasion of her 50th birthday. Done in Frankfort, Kentucky, this thirteenth day of February, in the year two thousand and three.

Legislative Citation No. 29 was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 28.**

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of Leadership Montgomery County, an outstanding program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as Leadership Montgomery County is a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Adrian K. Arnold in commending the members of this highly-regarded program for the effort put forth in this worthwhile endeavor and graciously welcoming those in attendance on this day's session of the 2003 Kentucky General Assembly. Done in Frankfort, Kentucky, this thirteenth day of February, in the year two thousand and three.

Legislative Citation No. 28 was adopted without objection.

Representative Barrows moved that **HJR 82** and **83** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Barrows moved the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 495, by Representative Stewart: AN ACT relating to railroad fences.

HB 496, by Representative Riggs: AN ACT relating to air boards.

HB 497, by Representatives Sims and Nesler: AN ACT relating to nondriver identification cards.

HB 498, by Representatives Bruce and Edmonds: AN ACT relating to the Kentucky Children's Health Insurance Program.

HB 499, by Representative Vincent: AN ACT relating to the state budget.

HB 500, by Representative Nunn: AN ACT relating to services for disabled adults.

HB 501, by Representatives B. Smith and Nunn: AN ACT relating to individuals with disabilities.

HB 502, by Representatives Meeks, B. Smith, Graham, Simpson, Jenkins, L. Clark, and Horlander: AN ACT relating to voter registration.

HB 503, by Representative Meeks: AN ACT relating to equity in hiring in the public schools.

HCR 141, by Representative Dw. Butler: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study the Kentucky Educational Excellence Scholarship Program.

HCR 142, by Representative Denham: A CONCURRENT RESOLUTION encouraging the Transportation Cabinet to install raised-pavement markers and rumble strips on all Kentucky highways, especially those highways with a high incidence of head-on collisions.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **HCR 137**

Appropriations and Revenue: **HB 390, 284**

Natural Resources: **HB 458**

Local Government: **HB 473, 408, 468, 463, 436, 425, 371**

Report of Committees (Continued)

The Committee on Agriculture and Small Business reported **HB 280, HB 305, HB 391,** with Committee Amendment attached thereto, **HCR 84, HCR 85,** with Committee Amendment attached thereto, **HCR 86,** and **HCR 106** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 280, AN ACT relating to the Department of Agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The Office of the Commissioner.

(2) The chief executive officer.

(3) The Office for Agricultural Marketing and Product Promotion, which shall include the following:

(a) The Division of Market Research;

(b) The Division of Show and Fair Promotion;[~~ and~~]

(c) The Division of ***International Marketing;***

(d) The Division of Value-Added Horticulture and Promotion;

(e) The Division of Value-Added Wood; and

(f) The Division of Value-Added Livestock, Poultry, and Forage Promotion[~~Value-Added Development~~].

(4) The Office for Consumer and Public Service, which shall include the following:

(a) The Division of Regulation and Inspection; and

(b) The Division of Food Distribution.

(5) The Office of State Veterinarian, which shall include the Division of Animal Health.

(6) The Office for Environmental ***Services***[~~Outreach~~], which shall include the following:

(a) The Division of ***Environmental Assistance***[~~Pests and Weeds~~];

(b) The Division of Pesticides;[~~ and~~]

(c) The Division of Agriculture and Environmental Education***; and***

(d) The Division of Farmland Preservation.

(7) The Office for Strategic Planning and Administration, which shall include the following:

(a) The Division of Fiscal and Intergovernmental Management;

(b) The Division of Information Technology;

(c) The Division of Personnel and Staff Development; and

(d) The Division of Public Relations and Communications.

(8) The State Board of Agriculture.

Section 2. KRS 249.400 is amended to read as follows:

As used in KRS 249.400 to 249.430 unless the context otherwise requires:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Division" means the Division of ***Environmental Assistance***[~~Pests and Weeds~~].

Section 3. KRS 249.410 is amended to read as follows:

The Division of ***Environmental Assistance***[~~Pests and Weeds~~] in the Department of Agriculture shall be under the supervision of the Commissioner and shall consist of personnel determined and appointed by him.

HB 305, AN ACT relating to fertilizer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.381 is amended to read as follows:

(1) There shall be paid to the Kentucky Agricultural Experiment Station for all fertilizers distributed in this state to

nonregistrants or nonlicensees an inspection fee at the rate of fifty cents ($0.50) per ton; except sales or exchanges between importers, manufacturers, distributors, licensees, or registrants are exempted.

(2) Every registrant or licensee who distributes fertilizer in the state shall file on forms approved by the director a~~[monthly,]~~quarterly~~[, or semiannual]~~ statement~~[for the reporting period]~~ setting forth the number of net tons of each grade of fertilizer distributed in this state***, the county of the consignee, the form in which the fertilizer was distributed, e.g. bags, bulk, or liquid, and whether the fertilizer was for farm or nonfarm use***~~[during the period]~~. The report shall be due on or before ***the last day of January, April, July, and October of each year,***~~[twenty (20) days following the close of the filing period]~~ and upon the filing of the statement ***the registrant or licensee*** shall pay the inspection fee at the rate stated in subsection (1) of this section. If the tonnage report is not filed and the payment of inspection fees is not made within ***fifteen (15)***~~[thirty (30)]~~ days after the due date, a collection fee, amounting to ten percent (10%), with a minimum of fifty dollars ($50), of the amount due shall be assessed against the registrant or licensee and added to the amount due.

(3) ***If***~~[When]~~ more than one (1) person is involved in the distribution of a fertilizer, the last person who has the fertilizer registered or is licensed and who distributed to a nonregistrant dealer or consumer shall be responsible for reporting the tonnage and paying the inspection fee, unless the report and payment ***are***~~[is]~~ made by a prior distributor of the fertilizer.

(4) On individual packages of fertilizer containing ten (10) pounds or less, there shall be paid, in lieu of the inspection fee of fifty cents ($0.50) per ton required by subsection (1) of this section~~[and the tonnage report required by KRS 250.386]~~, an annual inspection fee of fifty dollars ($50) for each grade of each brand sold or distributed. If a person distributes fertilizer in packages of ten (10) pounds or less and in packages over ten (10) pounds, the annual fee shall apply only to that portion distributed in packages of ten (10) pounds or less.

(5) Fees collected shall be used for the payment of the costs of ***inspecting***~~[inspection]~~, sampling, ***analyzing***~~[analysis]~~, and other expenses necessary for the administration of KRS 250.361 to 250.451.

(6) No information furnished to the director under this section shall be disclosed in a way to divulge the operation of any person.

Section 2. KRS 250.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 250.021 to 250.111 ***or***~~[and]~~ KRS 250.361 to 250.461 shall be fined not less than one hundred dollars ($100), nor more than seven hundred fifty dollars ($750).

(2) Any person who shall impede, hinder, or otherwise prevent, or attempt to prevent, the director or his duly authorized agent in the performance of his duty in connection with this chapter, shall be guilty of a Class A misdemeanor.

(3) Any person who violates subsection (6) of KRS 250.601 shall be guilty of a Class B misdemeanor.

(4) Except as provided by subsection (3) of this section, any person who violates any of the provisions of KRS 250.491 to 250.631 may be fined up to one thousand dollars ($1,000) for the third and subsequent violations made within a twenty-four (24) month period.

Section 3. The following KRS section is repealed:

250.386 Reporting of consignments to nonregistrant.

HB 391, AN ACT relating to the marketing of home-processed foods.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act***. For the purposes of Sections 2 and 3 of this Act, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient***;

(3) "Cabinet" means the Cabinet for Health Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments***, home-based processors, or home-based microprocessors***;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, and physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858;

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;~~[and]~~

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment***;***

(51) "Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for

home use and not for commercial use, and shall be operated in the kitchen within the residence;

(52) "Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;

(53) "Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;

(54) "Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

(55) "Acid food" means foods that have a natural pH of 4.6 or below;

(56) "Home-based processor" means a person who, in the person's home, produces or processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies; and

(57) "Home-based microprocessor" means a person who, in the person's home or certified or permitted kitchen, produces or processes acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a net income of less than thirty-five thousand dollars ($35,000) annually from the sale of the product;

(58) "Certified" means any person or home-based microprocessor who:

(a) Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or

(b) Has attended some other school pursuant to 21 C.F.R. sec. 1114.10.

SECTION 2. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

(1) A home-based processor shall be exempt from KRS 217.035, 217.037, and 217.125 if the following conditions are met:

(a) All finished product containers are clean, sanitary, and properly labeled pursuant to subsection (3) of this section;

(b) All home-processed foods produced under this exemption are neither adulterated nor misbranded pursuant to subsection (4) of this section; and

(c) All glass containers for jams, jellies, preserves, fruit butter, and similar products are provided with suitable rigid metal covers.

(2) A home-based processor shall not produce or process for sale acid foods, acidified food products, formulated acid food products, or low-acid canned foods.

(3) A home-based processor shall label each of its food products and include the following information on the label of each of its food products:

(a) The name and address of the home-based processing operation;

(b) The common or usual name of the food product;

(c) The ingredients of the food product, in descending order of predominance by weight;

(d) The net weight and volume of the food product by standard measure, or numerical count;

(e) The following statement in ten (10) point type: "This product is home-produced and processed"; and

(f) The date the product was processed.

(4) Food products identified in subsection (56) of Section 1 of this Act and not labeled in accordance with subsection (3) of this section are deemed misbranded.

(5) Food products identified in subsection (56) of Section 1 of this Act and produced, processed, and labeled in accordance with subsection (3) of this section are acceptable food products that a food service establishment, retail food establishment, or retail food store may offer for sale or use in preparing and serving food.

(6) Food products identified in subsection (56) of Section 1 of this Act and labeled in accordance with subsection (3) of this section shall not be required to be tested in determining whether or not the food product is an acid food, acidified food product, formulated acid food product, or low-acid food.

(7) The processing facilities of a home-based processor may be inspected annually by the cabinet.

(8) A home-based processor shall be subject to food sampling and inspection if it is determined that its food product is misbranded pursuant to subsection (4) of this section or adulterated, or if a consumer complaint has been received.

SECTION 3. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall promulgate administrative regulations to accommodate the specific circumstances of home-based microprocessors. In order to protect public health while encouraging the marketing of home-processed foods, the administrative regulations shall include, at a minimum, standards for:

(a) Installation, design, location, and maintenance of toilet rooms;

(b) Installation and maintenance of hand-washing facilities;

(c) Manual and mechanical cleaning and sanitizing processes;

(d) Installation and location of equipment;

(e) Construction and covering of floors; and

(f) Construction, materials, and maintenance of walls and ceilings.

(2) Food products that are produced or processed by a home-based microprocessor and in compliance with administrative regulations promulgated pursuant to subsection (1) of this section are acceptable food products that a food service establishment, retail food establishment, or retail food store may offer for sale or use in preparing and serving food.

SECTION 4. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Cooperative Extension Service shall develop, implement, and administer a program to train, evaluate, and certify home-based microprocessors or personnel in compliance with 21 C.F.R. sec. 114.10.

(2) The Kentucky Cooperative Extension Service shall by October 31, 2003:

(a) Establish certification terms, conditions, and length of time the certification is valid;

(b) Develop a certification document;

(c) Establish terms, conditions, and standards for recertification;

(d) Develop an examination;

(e) Establish examination subject matter; and

(f) Establish fees for microprocessing program and certification.

(3) The certification document shall be made in triplicate, with one (1) copy given to the home-based microprocessor or personnel, one (1) copy given to the Kentucky Cooperative Extension Service, and one (1) copy kept on file for public record.

(4) Upon completion of the program, home-based microprocessors and personnel shall be deemed to be certified and to have met the training requirements pursuant to 21 C.F.R. sec. 114.10.

SECTION 5. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Cooperative Extension Service shall establish and administer a pilot microprocessing program to train, evaluate, and certify home-based microprocessors and personnel for supervising or giving instruction in food-handling techniques, food-protection principles, personal hygiene and plant sanitation practices, pH controls, and critical factors in acidification.

(2) The pilot microprocessing program shall be established by November 30, 2003, and implemented no later than December 31, 2003. There shall be no less than four (4) program workshops offered to home-based microprocessors and personnel, and each shall be held in a separate and distinct geographical location within the state.

The Committee Amendment No. 1 to **HB 391** is as follows:

HB 391, On page 12, on line 5 after "*that*" by inserting the following;

"*may only be offered for sale by farmers markets, certified roadside stands, or on the processor's farm. These food products may be used in preparing and serving food*"; and by deleting the rest of the text on line 5, and on lines 6 and 7 by deleting all the text thereon but retaining the "*;*" on line 7.

HCR 84, A CONCURRENT RESOLUTION confirming the appointment of Daniel C. Case to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on November 14, 2002, by Executive Order 2002-1276, the Governor appointed Daniel C. Case to the Agricultural Development Board for a term expiring July 6, 2006; and

WHEREAS, Daniel C. Case has been appointed as meeting the requirements of KRS 248.707, being experienced in agricultural lending and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Daniel C. Case to the Agricultural Development Board for a term to expire on July 6, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Daniel C. Case, Route 1, Box 27A, Mount Olivet, Kentucky 41064 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 85, A CONCURRENT RESOLUTION creating the Kentucky Rural Issues Task Force.

WHEREAS, seventy-five percent of Kentuckians live in small cities and other rural areas with populations of less than 10,000 people; and

WHEREAS, over half of Kentucky's population lives outside the seven Metropolitan Statistical Areas in our state; and

WHEREAS, rural Kentuckians face unique challenges brought about by geographic remoteness and demographic disparity; and

WHEREAS, rural areas of our state often lack the levels of infrastructure, economic development, and other essential services enjoyed by urban areas; and

WHEREAS, though agriculture plays a significant role in the lives of rural Kentuckians, rural Kentuckians have an obvious and significant economic impact on their urban counterparts and depend on the same infrastructure and services as urban Kentuckians; and

WHEREAS, Kentucky needs to evaluate the parity between rural and urban areas by examining state and federal programs that relate to infrastructure, economic development, and other essential services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Rural Issues Task Force is created to study the effectiveness of state and federal programs designed to address the challenges facing rural Kentuckians. These challenges include issues relating to agriculture, community development, economic development, education, environment, health care, housing, natural resources, public protection, telecommunications, transportation, and water and sewer access.

Section 2. The members of the task force shall include the co-chairs of the following interim joint committees:

(1) Agriculture and Natural Resources;
(2) Economic Development and Tourism;
(3) Education;
(4) Health and Welfare;
(5) Local Government;
(6) Special Subcommittee on Energy; and
(7) Transportation.

A co-chair may name a vice-chair as designee if the co-chair is not able to attend a task force meeting.

Section 3. The co-chairs of the Interim Joint Committee on Agriculture and Natural Resources shall call the first task force meeting to be held in June, 2003, at which time co-chairs shall be elected and a schedule of subsequent meetings shall be set. Staff for the task force shall be provided by the staff of the Legislative Research Commission.

Section 4. The task force shall hear testimony from agencies, organizations, groups, and individuals who are knowledgeable about the specific issues that relate to the program areas named in Section 1 of this Resolution. The task force may make legislative proposals at the 2004 Regular Session of the General Assembly.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 to **HCR 85** is as follows:

HCR 85, On page 1, line 8, after "following", by inserting "seven (7)"; and

On page 1, line 8, after "committees", by inserting ", and shall also include one (1) member of the legislature that would represent the African-American farmer community and one (1) member that would represent the female community".

HCR 86, A CONCURRENT RESOLUTION confirming the appointment of Wayne Hunt to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on November 14, 2002, by Executive Order 2002-1276, the Governor appointed Wayne Hunt to the Agricultural Development Board for a term expiring July 6, 2006; and

WHEREAS, Wayne Hunt has been appointed as meeting the requirements of KRS 248.707, being an active farmer and agri-businessman for 40 years and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Wayne Hunt to the Agricultural Development Board for a term to expire on July 6, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Wayne Hunt, 1000 Wayne Hunt Road, Herndon, Kentucky 42236 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 106, A CONCURRENT RESOLUTION confirming the appointment of Vickie Yates Brown to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on November 14, 2002, by Executive Order 2002-1276, the Governor appointed Vickie Yates Brown to the Agricultural Development Board for a term expiring July 6, 2006; and

WHEREAS, Vickie Yates Brown has been appointed as meeting the requirements of KRS 248.707, being an attorney with farm experience and familiarity with agricultural policy and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Vickie Yates Brown to the Agricultural Development Board for a term to expire on July 6, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution and notification of its adoption to Vickie Yates Brown, 3922 Massie Avenue, Unit #10, Louisville, Kentucky 40207 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

Motions, Petitions, and Communications (Continued)

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "yea" on **HB 237, 296, HJR 28,** and **HJR 13**. Agreed.

Representative Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Belcher moved that she be recorded as voting "yea" on **HB 237**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 237, 296, HJR 13,** and **HJR 28**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 194**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 237, HJR 28,** and **HR 18**(This vote was recorded before the resolution was adopted by voice vote). Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that his vote be changed from "nay" to "yea" on **HB 237**. Agreed.

Floor Amendments

Floor Amendment No. 2 to **HB 251**, by Representative Crimm:

HB 251, On page 19, after line 11, by inserting:

"SECTION 26. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

When insured property losses in excess of one thousand dollars ($1000) accrue to the owner of a dwelling or other structure where restoration was necessary as the result of a loss covered under the owner's policy of property or casualty insurance as defined in Subtitle 5 of this chapter, the insurance company shall name the insured and contractor of any uncompleted construction or building contract as joint payees on the draft covering payment for the loss."; and

On page 19, line 12, by deleting the line in its entirety and inserting in lieu thereof:

"Section 27. Sections 16 to 25 of this Act take effect on July 15, 2003."; and

On page 12, line 11; and on page 14, line 6; and on page 15, lines 19 and 20; and on page 16, line 18; and on page 18, lines 5, 12, 16, 20, and 21; and on page 19, lines 7 and 11, by deleting "*26*" and inserting in lieu thereof "*25*"; and

On page 18, line 27, by deleting "*17*" and inserting in lieu thereof "*16*";and

On page 19, line 1, by deleting "*27*" and inserting in lieu thereof "*25*".

Floor Amendment No. 1 Title to **HB 208**, by Representative Brinkman:

HB 208, Amend title to read:

"An ACT relating to the merger of cities."

Floor Amendment No. 1 to the Committee Substitute to **HB 269**, by Representative Riggs:

HB 269, Office of the Secretary

Economic Development

On page 26, line 7, by deleting "1,380,300" in FY 2003-04 and inserting in lieu thereof "2,750,000"; and

On page 26, line 9, by deleting "5,993,100" in FY 2003-04 and inserting in lieu thereof "7,363,100" and by adjusting subsequent totals; and

On page 27, between lines 8 and 9 by inserting "Included in the above General Fund appropriation is $1,370,000 in fiscal year 2003-2004 for debt service for new bonds."; and

On page 84, between lines 1 and 2, by inserting the following:

" c. Rupp Arena Renovation
Bond Funds 15,000,000" (FY 2003-04).

Floor Amendment No. 3 to the Committee Substitute to **HB 242**, by Representative J. Lee:

HB 242, On page 15, lines 14 to 16, by deleting "*, including by not limited to assistance in the management of funds, assets, or property of the vulnerable adult or the provision of services,*"; and

On page 16, line 8, by inserting before the semi-colon the following:

"*, but not identify a perpetrator of abuse, neglect, or exploitation in any report of investigative findings*"; and

On page 18, after line 5 and before line 6, by inserting the following:

"*(11) (a) Each agency that receives an investigative report of alleged abuse, neglect, or exploitation of a vulnerable adult from the Cabinet for Families and Children shall notify the Cabinet for Families and Children of the following:*
  1. A determination to take no action upon the report; or
  2. A determination, upon conclusion of the agency's administrative process or judicial review, that the agency does not uphold the Cabinet for Families and Children's determination that the vulnerable adult was abused, neglected, or exploited.
(b) Upon receipt of a determination under subparagraph 1. or 2. of paragraph (a) of this subsection, the Cabinet for Families and Children shall amend its investigative findings to reflect the determination of the agency.".

Floor Amendment No. 1 to the Committee Substitute to **HB 294**, by Representative Riggs:

HB 294, Court Operations & Administration

Part I

On page 1, line 15, in FY 2003-04, by deleting "150,490,400" and inserting "149,120,400" in lieu thereof;

On page 1, line 18, in FY 2003-04, by deleting "163,415,300" and inserting "162,045,300" in lieu thereof; and

By adjusting subsequent totals.

Floor Amendment No. 1 to the Committee Substitute to **HB 224**, by Representative Rasche:

HB 224, On page 2, after line 8 by inserting the following:

"Section 2. KRS 630.060 is amended to read as follows:

(1) Information supplied by the child to a court designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child.

(2) No complaint shall be received by the court designated worker alleging habitual truancy unless an adequate assessment of the child has been performed pursuant to KRS 159.140***(1)(c),(d), and (f)***[~~(3), (4) and (6)~~], unless it can be shown that the assessment could not be performed due to the child's failure to participate.".

Floor Amendment No. 1 to **HB 262**, by Representative Cornett:

HB 262, On page 1, line 14, after the semicolon "***;***" delete "***or***"; and

On page 1, line 16, after the word "***vehicle***" and before the period "." insert the following:

"***; or***

3. Lights on a commercial motor vehicle that has a declared gross vehicle weight and any towed unit of ten thousand and one (10,001) pounds or greater".

Floor Amendment No. 2 to the Committee Substitute to **HB 294**, by Representative Damron:

HB 294, Judicial Branch

Part III

On page 6, between lines 21 and 22, by inserting the following:

"12. Notwithstanding KRS 24A.230, the jurisdiction of the Small Claims Division of District Court shall not exceed $2,500."

Floor Amendment No. 2 to the Committee Substitute to **HB 269**, by Representative Jenkins:

HB 269, Support Education Excellence in Kentucky (SEEK) Program

Part IX

On page 221, after line 11, by inserting the following:

" Any local school district that has a negotiated salary schedule for fiscal year 2003-2004, ratified by the local board of education and the union representing certified staff before February 1, 2003, shall be exempt from this provision provided the average cost-of-living adjustment exceeds $1,080 per certified staff member."

Floor Amendment No. 3 to **HB 251**, by Representative Draud:

HB 251, On page 12, line 11, by deleting "*(26)*" and inserting in lieu thereof "*(23)*"; and

On page 12, by deleting lines 17 to 26 in their entirety; and

On page 12, line 27, by deleting "*(5)*" and inserting "*(3)*" in lieu thereof; and

On page 13, line 12 by deleting "*(6)*" and inserting "*(4)*" in lieu thereof; and

On page 14, line 6, by deleting "*(26)*" and inserting in lieu thereof "*(23)*"; and

On page 14, line 7 by deleting "*(7)*" and inserting "*(5)*" in lieu thereof; and

On page 14, line 18 by deleting "*(8)*" and inserting "*(6)*" in lieu thereof; and

On page 14, line 22 by deleting "*(9)*" and inserting "*(7)*" in lieu thereof; and

On page 14, by deleting line 27 in its entirety; and

On page 15, by deleting line 1 in its entirety; and

On page 15, line 4, by deleting "***(1)***"; and

On page 15, be deleting lines 8 to 27 in their entirety; and

On page 16, by deleting lines 1 to 13 in their entirety; and

On page 16, line 18, by deleting "***(26)***" and inserting in lieu thereof "***(23)***"; and

On page 18, lines 5, 12, 16, 20, and 21, by deleting "***(26)***" and inserting in lieu thereof "***(23)***"; and

On page 18, line 11, by deleting "***, including continuing education requirements in Subtitle 9 of this chapter,***"; and

On page 18, by deleting lines 17 to 27 in their entirety; and

On page 19, by deleting lines 1 to 8 in their entirety;

On page 19, line 9, by deleting "25" and inserting in lieu thereof "24"; and

On page 19, line 11, by deleting "***26***" and inserting in lieu thereof "***23***"; and

On page 19, after line 11, by inserting:

"Section 25. KRS 304.9-030 is amended to read as follows:

(1) Unless denied a license according to KRS 304.9-440, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license.

(2) An insurance agent may receive qualification for a license in one (1) or more of the following applicable lines of authority:

(a) Life -- insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) Health -- insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(c) Property -- insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) Casualty -- insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(e) Variable life and variable annuity products -- insurance coverage provided under variable life insurance contracts and variable annuities;

(f) Limited line insurance as identified in KRS 304.9-230;

(g) Personal lines -- property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; ~~[and]~~

(h) ***Title -- title insurance as defined in KRS 304.5-090; and***

(i) Any other line of insurance authorized by Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.

Section 26. KRS 304.9-105 is amended to read as follows:

An individual applying for an agent license shall make application to the commissioner on the uniform individual application or other application prescribed by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the applicant:

(1) Is at least eighteen (18) years of age;

(2) Has fulfilled the residence requirements as set forth in KRS 304.9-120 or is a nonresident who is not eligible to be issued a license in accordance with KRS 304.9-140;

(3) Has not committed any act that is a ground for denial, suspension, or revocation set forth in KRS 304.9-440;

(4) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;

(5) Is competent to exercise the license and has:

(a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;

(b) Except for limited lines licenses, completed a forty (40) hour prelicensing classroom course of study for the lines of authority for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section;

(c) Except for limited line licenses, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied; and

(d) Paid the fees set forth in KRS 304.4-010; and

(6) Is financially responsible to exercise the license and has:

(a) 1. Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than twenty thousand dollars ($20,000) and one hundred thousand dollars ($100,000) in the aggregate for all occurrences within one (1) year, and that the policy shall not be terminated unless at least thirty (30) days' prior written notice will have been given to the commissioner; or

2. Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write business in this Commonwealth, in the sum of twenty thousand dollars ($20,000), which shall be subject to lawful levy of execution by any party to whom the licensee has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as an agent; or

3. Filed with the commissioner on his or her behalf, by an authorized insurer or group of affiliated insurers for which he or she is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent on behalf of the insurer or group of affiliated insurers in the sum of twenty thousand dollars ($20,000) for any single occurrence and that the agreement shall not be terminated until the license is surrendered to the commissioner or at least thirty (30) days' prior written notice will have been given to the commissioner, whichever shall first occur; and

(b) ***1. Filed with the commissioner the certificate of the insurer authorized to write legal liability insurance in this state that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in a sum of not less than two hundred fifty thousand dollars ($250,000) per claim; and***

2. Filed with the commissioner a blanket fidelity bond or employee dishonesty insurance policy issued by an authorized insurer and covering persons employed by the agent and providing a minimum of fifty thousand dollars ($50,000) in coverage. When the agent has no employees except the owner, partners, shareholders, or members, the settlement agent may apply to the appropriate licensing authority for a waiver of this fidelity bond or employee dishonesty insurance requirement.

3. Paragraph (b) of this subsection shall apply only to agents holding a title line of authority, and agents holding a title line of authority only shall not be required to comply with the requirements of paragraph (a) of this subsection.

(c) Agreed with the commissioner that if at any time notice is given to the commissioner that any policy ***or bond*** filed in accordance with paragraph (a)1. ***or paragraph (b)*** of this subsection, or agreement filed in accordance with paragraph (a)3. of this subsection, is to be terminated and has not been replaced by another policy***, bond,*** or agreement within the time established by regulations of the commissioner, or if any deposit in accordance with paragraph (a)2. ***or (b)2.*** of this subsection be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by regulations of the commissioner, any and all licenses held by the licensee are revoked and shall be promptly surrendered to the commissioner without demand. The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application."; and

On page 19, line 12, by deleting the line in its entirety and inserting in lieu thereof:

"Section 27. Sections 16 to 26 of this Act shall take effect on January 1, 2004.".

Floor Amendment No. 4 to the Committee Substitute to **HB 242**, by Representative Nunn:

HB 242, On page 25, between lines 21 and 22, by inserting the following:

"Section 19. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; [~~or~~]

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670***, or***

12. Any individual whose function is to provide twenty-four (24) hour residential care in his or her own home as a family caregiver and who is approved to provide family caregiver services to an adult with a disability through a contractual relationship with a community mental health and mental retardation board established under KRS 210.370-210.460, or is certified or licensed by the Cabinet for Health Services or the Cabinet for Families and Children to provide adult foster care.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail."; and

By renumbering the remaining section accordingly.

Floor Amendment No. 5 Title to **HB 242**, by Representative Nunn:

HB 242, By amending the title to read "AN ACT relating to vulnerable adults.".

Floor Amendment No. 1 to the Committee Substitute to **HB 145**, by Representative Webb:

HB 145, On page 27, lines 9 to 12, by deleting same and inserting the following in lieu thereof:

"*(1) A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before the effective date of Sections 1 to 41 of this Act is governed by the law in effect at the time the motion or other request was made.*

(2) Custody decrees previously registered in this state under the provisions of KRS 403.400 to 403.620 shall be deemed registered under the provisions of Sections 1 to 41 of this Act.".

Floor Amendment No. 3 to the Committee Substitute to **HB 294**, by Representative Crenshaw:

HB 294, Judicial Branch

Part III

On page 6, between lines 21 and 22, by inserting the following:

"12. The Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds."

Floor Amendment No. 1 to the Committee Substitute to **HB 115**, by Representative Cherry:

HB 115, On page 4, after line 24, insert the following"

"***(9) Nothing in Sections 1 to 14 of this Act shall apply to the installation, maintenance, or repair of a major medical equipment device.***".

Floor Amendment No. 1 to **HB 265**, by Representative Fischer:

HB 265, On page 1, by deleting each of the Whereas clauses in their entirety; and

On page 1, on the line before the enacting clause, by deleting "NOW, THEREFORE,"; and

On page 1, on lines 4 to 6, by deleting same and inserting in lieu thereof:

"***(1) "Human cloning" means nuclear transplantation;***"; and

On page 1, line 8, by deleting "***means a procedure***" and inserting "***means any procedure***" in lieu thereof; and

On page 2, lines 6 and 7, by deleting "***with the intent to create a child***"; and

On page 2, line 10, by deleting "***with the intent to create a child***"; and

On page 2, lines 16 to 27, and on page 3, lines 1 to 23, by deleting Section 3 and Section 4 of the bill in their entirety.

Floor Amendment No. 2 to the Committee Substitute to **HB 265**, by Representative Fischer:

HB 265, On page 1, by deleting each of the Whereas clauses in their entirety; and

On page 1, on the line before the enacting clause, by deleting "NOW, THEREFORE,"; and

On page 1, on lines 4 to 5, by deleting same and inserting in lieu thereof:

"***(1) "Human cloning" means nuclear transplantation;***"; and

On page 1, line 7, by deleting "***means a procedure***" and inserting "***means any procedure***" in lieu thereof; and

On page 2, lines 5 and 6, by deleting "***with the intent to create a child***"; and

On page 2, line 9, by deleting "***with the intent to create a child***"; and

On page 2, lines 15 to 27, and on page 3, lines 1 to 14, by deleting Section 3 of the bill in its entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 81**, by Representative Yonts:

HB 81, On page 2, line 17, after "***notice,***" insert "***of no less than three (3) days***"; and

On page 2, line 26, after "***property***" and before "***;***" insert "***. The owner shall not be required to create a road for access***"; and

On page 3, line 1, after "***landowner***" and before "***;***" insert "***. Access shall include non-vehicular access***"; and

On page 3, line 6, delete "***and***" and between "***landowner***" and before "***;***" insert "***. Any new road for access provided by the landowner shall be at the expense of the descendants***"; and

On page 3, line 10, after "***access***" delete "***.***" and insert "***; and***"; and

On page 3 between lines 10 and 11 insert the following:

"***(h) Nothing shall require the landowner to build any fences or supply gates, but if the descendants negotiate for an access route, any fencing or road creation shall be at the expense of the descendants. The access route shall not interfere with the landowner's operation***.", and

On page 3, lines 18 through 24, delete subsection (3) in its entirety; and

On page 4, line 21, after "***record.***" insert "***Nothing herein shall require the landowner to provide a survey.***"; and

On page 16, line 2, after "***Every***" insert "***public***".

Floor Amendment No. 1 to the Committee Substitute to **HB 320**, by Representative Draud:

HB 320, "On page 1, after line 13, by adding the following:

SECTION 2. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Members of the Kentucky Teachers' Retirement System with teaching service in private colleges or universities in Kentucky that accept students under the Kentucky Higher Education Assistance Authority or the Kentucky Education Excellence Scholarship program may purchase up to four (4) years credit under the same conditions that out-of-state service credit may be purchased under KRS 161.515."

Floor Amendment No. 3 to the Committee Substitute to **HB 269**, by Representative Bather:

HB 269, Medicaid

Benefits

Part IX

On page 240, after line 24, insert the following:

"o. Nursing Facility, Home-and Community-Based Waiver and Adult Day Care Eligibility: Notwithstanding any other provision of law, the Cabinet for Health Services shall not take any action to exclude, reduce, eliminate, or otherwise change the eligibility criteria for qualifying individuals for nursing facility level of care or the home and community based waiver programs that were in effect on January 1, 2003. If the cabinet has taken any action that has resulted in a change to the eligibility criteria for qualifying individuals for nursing facility level of care or the home and community based waiver programs, the cabinet shall restore the eligibility criteria existing on January 1, 2003. In addition, notwithstanding any other provision of law, the Cabinet for Health Services shall not take any action to exclude individuals 18 years of age or older from eligibility for adult day program services. The cabinet shall not take any action to limit adult day services to less than two units, as defined in 907 KAR 1:170 in effect on January 1, 2003, six days a week per recipient or limit homemaker services to less than ten units, as defined in 907 KAR 1:170 in effect on January 1, 2003, or five hours per week. If these adult day program services have been reduced below these levels, the cabinet shall restore the service to the level required in this section."

Floor Amendment No. 4 to the Committee Substitute to **HB 269**, by Representative Bather:

HB 269, Medicaid

Benefits

Part IX

On page 41, delete lines 26 and 27, on page 42, delete lines 1 through 3; and on page 240, delete lines 21 through 24, and insert:

"n. Supports for Community Living Waiver: The additional $3,800,800 in Restricted Funds support and $8,822,300 in Federal Funds support for an additional 250 Supports for Community Living slots in fiscal year 2003-04 shall also be made available for any Home and Community Based waiver program within the Department for Medicaid Services."

Floor Amendment No. 2 to **HB 81**, by Representative Yonts:

HB 81, On page 2, line 17, after "***notice***," insert "***of no less than three (3) days***"; and

On page 2, line 26, after "***property***" and before ";" insert "***. The owner shall not be required to create a road for access***"; and

On page 3, line 1, after "***landowner***" and before ";" insert "***. Access shall include non-vehicular access***"; and

On page 3, line 6, delete "***and***" and between "***landowner***" and before ";" insert "***. Any new road for access completed after a negotiated agreement with the landowner shall be at the expense of the descendants***"; and

On page 3, line 10, after "***access***" delete "." and insert "***; and***"; and

On page 3 between lines 10 and 11 insert the following:

"***(h) Nothing shall require the landowner to build any fences or supply gates, but if the descendants negotiate for an access route, any fencing, road creation, or maintenance shall be at the expense of the descendants. The access route shall not interfere with the landowner's operation***.", and

On page 3, lines 18 through 24, delete subsection (3) in its entirety; and

On page 4, line 21, after "***record.***" insert "***Nothing herein shall require the landowner to provide a survey.***"; and

On page 16, line 2, after "***Every***" insert "***public***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 8, Representatives Bather and Hall

HB 174, Representative Marzian

HB 219, Representatives Cornett and Weaver

HB 268, Representative Marzian

HB 349, Representatives Cornett, Nunn, and Weaver

HB 377, Representative Simpson

HB 382, Representative Nunn

HB 384, Representative Riner

HB 385, Representatives Cornett, Embry, Feeley, and Weaver

HB 391, Representative R. Adams

HB 438, Representatives Kerr and Simpson

HB 452, Representatives P. Clark and Horlander

HB 461, Representative Hoover

HB 463, Representatives Rand and Riggs

HJR 28, Representative Richards

HJR 116, Representatives Comer, Ford, Hall, Mobley, Nelson, Turner, and Vincent

Announcements

The following meetings were announced:

Appropriations and Revenue Committee: Friday, February 14, 2003, 9:00 a.m.

Banking and Insurance Committee: meeting upon adjournment canceled

State Government Committee: today, upon adjournment

Adjournment

Representative Barrows moved that the House adjourn until 10 a.m. on Friday, February 14, 2003.

The motion that the House adjourn until 10 a.m., Friday, February 14, 2003, was adopted by voice vote.

FRIDAY, FEBRUARY 14, 2003

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bratcher, Coleman, and Miller.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Thursday, February 13, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Brinkman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Brinkman moved the adoption of the following **Legislative Citation No. 32**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Trinity High School Football Team for outstanding athletic performance that resulted in this talented assemblage of athletes winning the 2002 KHSAA Class AAAA State Football Tournament title and completing the season with a phenomenal undefeated record of 15-0. Inasmuch as the members of this celebrated team have enjoyed a stellar year and have brought great honor and esteem to both school and community by the effort put forth in this most worthwhile endeavor, the members of this distinguished body are delighted to join Representative Scott W. Brinkman in commending the Trinity High School Football Team for their tremendous athletic accomplishments and in extending best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this fourteenth day of February, in the year two thousand and three.

Legislative Citation No. 32 was adopted without objection.

Representative Stine moved that the rules be suspended to grant floor privileges to the Sweet Adelines from Lexington, Kentucky. Agreed.

Senate Message

Announcing passage of **SB 46** and **47** . (Time: 10:05 a.m.)

Introduction of Bills and Resolutions

HB 504, by Representative Adkins: AN ACT relating to the taxation of public service corporations.

HB 505, by Representative Brinkman: AN ACT relating to limited liability companies.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 492**

Appropriations and Revenue: **HB 489, 499**

Education: **HB 494, 503, HCR 141**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 502**

Health and Welfare: **HB 484, 498, 501, HR 139**

Judiciary: **HB 485, 486, 488, 490, 493**

Labor and Industry: **HB 500**

Local Government: **HB 496**

Natural Resources and Environment: **HJR 140**

State Government: **HB 487, 491**

Transportation: **HB 495, 497, HCR 142**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 464, 91, 92, 333, 351, 405, 410, 457, HCR 98, 135, HB 501**

State Government: **HB 432, 433, 470, HCR 138**

Judiciary: **HB 380, 466**

Report of Committees

The Committee on State Government reported **HB 177, HB 238, HB 256, HB 273, HB 297,** with Committee Substitute attached thereto, **HB 364, HB 384,** and **HB 461,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 177, AN ACT relating to social security numbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) When a social security number is provided on a document or to a public agency pursuant to any provision of the Kentucky Revised Statutes or any administrative regulation promulgated under the authority of the Kentucky Revised Statutes, or any local ordinance, order, or other regulation, that social security number shall not be a public record.

(2) When a record specified in subsection (1) of this section is released to the public any social security number contained in that record shall be redacted.

(3) The provisions of this section shall not apply to any record specified in subsection (1) of this section when:

(a) A court of competent jurisdiction specifically requires by written order that a social security number be released to the public; or

(b) A public agency which is lawfully entitled to the record obtains the record and specifically requires in writing that the social security number be provided to the requesting agency for official purposes.

HB 238, AN ACT relating to county consolidation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly to encourage county governments to perform at the highest levels of efficiency and economy while providing the highest standards of governmental services possible to their citizens. It is also the belief of the General Assembly that, in order to attain these high standards of efficiency, economy, and service and to ensure the ongoing improvement in the quality of life of all citizens of the Commonwealth, all county governments must be permitted by the action of their fiscal courts or at the request of their citizens to consider consolidation with adjoining counties for these purposes. The General Assembly, in support of those counties that take action to consolidate, further intends to provide financial and technical assistance for those counties through legislative action in order to ease the transitions brought by consolidation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Any two (2) or more adjoining counties may consolidate.

(2) (a) An action to consolidate a county may be initiated by:

1. The adoption of an ordinance by a fiscal court stating the intent of the county to consider consolidation with another county or counties; or

2. The petitioning of the fiscal court by residents who are registered voters within the county.

(b) The number of signatures required for a petition to consolidate shall equal twenty percent (20%) of the total

number of persons voting in the last presidential election. All petitions shall be certified as sufficient by the county clerk. All petitions shall include the printed name, address, age, and signature of each registered voter signing the petition, and the date of the signature. The petition shall not be circulated for a period of time exceeding one hundred twenty (120) days. If the petition exceeds the one hundred twenty (120) day time frame it shall become void. Any petition containing irregularities shall be returned to the petitioner, who shall have ten (10) days to correct the irregularities and resubmit the petition to the county judge/executive for final certification.

(c) Upon receipt of a certified petition or the final adoption of an ordinance stating the intent of a county to consolidate with another county or counties, the county judge/executive in the initiating county shall within ten (10) working days notify by certified mail, return receipt requested, the fiscal courts of the adjoining counties proposed for consolidation and shall notify the residents of those counties by legal public notice of the action taken in the initiating county. If no action is taken within one hundred twenty (120) days from the receipt of the certified letter to present a petition or to enact an ordinance in the adjoining counties which are proposed to be consolidated as provided in paragraphs (a) and (b) of this subsection, the actions in the initiating county shall be considered void.

(3) All ordinances relating to county consolidation shall be adopted in accordance with the provisions of KRS 67.076, 67.077, 67.855, 67A.070, and 67C.103. Upon enactment, the ordinances shall be published in accordance with the provisions of KRS Chapter 424.

(4) (a) If, within one hundred twenty (120) days of the public notice in an adjoining county proposed for consolidation, a petition is received or an ordinance is enacted stating the intent of the county to consolidate with a county or counties as provided in subsection (2)(a) and (2)(b) of this section, a special election shall be held within ninety (90) days on the same day within each county, to determine the will of the people in each separate county.

(b) The county judge/executive shall in each county proposed for consolidation deliver a certified copy of the enacted ordinance or the final certified petition to the county clerk of the county in which the election is to be held. The county clerk in each county proposed for consolidation shall prepare the following question to be placed before the voters: "Are you in favor of being consolidated with the county (or counties) of ...., which will form a new county?" The advertisement of the election by the sheriff shall be in accordance with KRS 242.040. The advertisement shall include the date of the election and the question to be voted upon.

(c) If a simple majority of those persons voting in each county vote in favor of the consolidation, the counties shall become consolidated. If less than a simple majority of those persons voting in each county favor the consolidation, then the issue of consolidation will become void for all purposes in each county.

(5) All general costs associated with the conduct of special elections relating to a proposed consolidation of counties shall be paid by the state. The publication costs for legal public notice of the election and the costs for legal public notices in adjoining counties proposed for consolidation as required in subsection (2)(c) of this section shall be considered a general cost of the election, but no other advertising shall be paid for by state funds.

(6) Upon certification of an affirmative action to consolidate counties, no further action shall be made to alter the territory of the newly consolidated county for a period of ten (10) years.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court of any new county created by the consolidation of two (2) or more counties shall not take any legal action until the expiration of the current terms of office of all elected county officials holding office when the counties were consolidated and the election and certification of the officials of the newly consolidated county. The officers of the newly consolidated county shall be elected and take office in the same manner and at the same time as other elected county officials.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Upon certification of an election to consolidate counties, the county judge/executive of each county shall, within thirty (30) days after the certification, appoint six (6) voters from the county to serve as members of a transition committee for the purpose of dividing the area of the new county into districts for the election of members of the fiscal court for the new county. The appointments for each county shall be made so that they reflect as closely as possible the ratio of each of the two (2) major political parties to the total county population. The committee members representing each county shall begin meeting jointly within fifteen (15) days after their appointment and proceed to divide the area of the new county into not less than three (3) nor more than eight (8) magisterial districts, each to be as nearly equal in area and population as possible. The committee shall also select not fewer than two (2) names nor more than five (5) names for the new county, which shall be submitted to the voters for their selection at the same time as the election for the members of the new fiscal court. The report of the transition committee shall be filed with the county judge/executive of each consolidating county not less than sixty (60) days after the appointment of the members. The members of the transition committee shall select a chairman from among themselves to preside over the meetings of the group.

(2) If, at the expiration of sixty (60) days after the initial meeting of the transition committee, a majority of the members have failed to agree upon the selection of the names for the proposed county or failed to agree upon a plan to divide the new county into magisterial districts, the Governor shall appoint an additional person to act as chairman of the committee. The Governor's appointee shall not vote on any question except in the case of a tie vote, to aid in the

selection of the potential new county names, the formation of magisterial districts, or any other relevant issue for the ballot. The report of the committee shall be filed with the county judge/executive of each county not less than thirty (30) days after appointment of the new chairman.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) All taxes in effect in each county in the fiscal year immediately preceding the beginning of the term of the new fiscal court shall remain in effect until action is taken to change or remove them by the new fiscal court.

(2) The territory formerly embraced within each of the previously existing counties is hereby made into a separate special taxing district for the repayment of financial obligations and debts of the previously existing counties. The new fiscal court has the power to levy and collect taxes in these special taxing districts in addition to its other powers to levy and collect taxes. The separate debt of each special taxing district shall be a first lien on the territory formerly embraced within that previously existing county. The money collected as taxes for each of the special taxing districts shall be kept separate and shall first be used as payment of the debts of the previously existing county that formerly embraced the territory of that specific taxing district. The special taxing district shall cease to exist upon repayment of all debts and financial obligations of the previously existing county.

(3) Any surplus funds in existence in a county on the date of a consolidation shall be spent in the territory of the previously existing county in which the surplus funds were raised. The surplus funds shall first be expended towards the regular repayment of any financial obligations or debts of the territory formerly embraced within each of the previously existing counties that were to be paid in full within five (5) years. The schedule for the repayment of debts or financial obligations that were contracted for a period of more than five (5) years shall be at the discretion of the newly formed county. Any surplus funds remaining after the payment of obligations and debts shall be spent by the fiscal court of the newly formed county in the territory of the previously existing county from which the taxes were collected.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Voters shall select the county seat of the newly consolidated county from one (1) of the previously existing county seats. The question on the selection of the new county seat shall be submitted to the voters at the same time as the election for the members of the new fiscal court and the selection of the name for the newly consolidated county. The county seat shall remain at this location for a period of no less than ten (10) years, after which time the citizens may remove the county seat only as provided by KRS 67.020. The remaining county government buildings in the county seats of the previously existing counties shall be maintained as branch offices of the newly formed counties for a period of no less than ten (10) years, after which the fiscal court may make a decision as to their necessity and use.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Where the previously existing counties were in the same representative, senatorial, judicial, or congressional district or districts, or in the same judicial circuit or circuits, the newly consolidated county shall remain in the same district or circuit. Where the previously existing counties were not in the same judicial circuit or judicial district, the newly consolidated county shall be placed in the same circuit or district in which the previously existing county which had the largest population was located. If each of the previously existing counties was a separate district, the new county shall be divided into such districts, each district to be contiguous with the boundary lines of the previously existing counties.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The Department for Local Government shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to guarantee the awarding of preference points on applications for Small Cities Community Development Block Grant funds made by newly consolidated counties. The Department for Local Government shall provide technical and advisory assistance to newly consolidated counties. Funds awarded under this provision shall be expended in compliance with all state and federal guidelines governing those funds.

Section 9. The following KRS sections are repealed:

67.190 Petition for consolidation of counties -- Notice.

67.200 New petition when petition not filed in time.

67.210 Order for election on question of consolidation.

67.220 Advertisement of election.

67.230 General election laws to apply.

67.240 Certification of results of election -- Appointment of commissions to lay off justices' districts and select choice of names and county seats.

67.250 Report of commissions -- Election of officers for new county.

67.260 Election to choose name and county seat of new county -- Period between elections on consolidation.

67.270 Debts of old counties -- Separate taxes to pay.

67.280 Assignment of new county to various election districts.

67.290 Records and property of old counties.

67.310 Disposition of county administrative agencies.

HB 256, AN ACT designating Muhlenberg County as the birthplace of thumb picking as a style of guitar playing.

WHEREAS, thumb picking is a style of playing guitar where the thumb establishes a rhythm and one or more other fingers simultaneously play the melody, making a composite sound of multiple guitars playing at the same time; and

WHEREAS, Alice DeArmond Jones of Dunmor in Muhlenberg County is attributed with being one of the earliest artists using the guitar style of thumb picking, passing it on to her son, Kennedy Jones, who was credited with popularizing the style, which began to spread through the region and then nationally; and

WHEREAS, the National Thumb Pickers Hall of Fame is in Muhlenberg County, Kentucky; and

WHEREAS, it is fitting and proper to record the origins of significant cultural contributions, thumb picking being a distinct style of guitar playing recognized nationally and having had many promoters of the style such as Chet Atkins, Merle Travis, Ike Everly, the Everly Brothers, Grandpa Jones, and countless others;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Muhlenberg County is designated as the birthplace of the thumb picking style of guitar playing.

HB 273, AN ACT designating the official state Daniel Boone portrait.

WHEREAS, in 1775 a longhunter named Daniel Boone was commissioned to blaze a trail through the Cumberland Gap which became known as Boone's Trace and later, the Wilderness Road; and

WHEREAS, the opening of the Cumberland Gap released a floodtide of settlers into the lands of America's interior, causing Kentucky to grow in population; and

WHEREAS, the region's population growth spurred by Boone's opening of the Cumberland Gap enabled Kentucky to join the Union as America's fourteenth state; and

WHEREAS, the story of the first gateway to the American west is commemorated at Cumberland Gap National Historical Park in Middlesboro, Kentucky, through an historically accurate oil painting; and

WHEREAS, David Wright, an American historical artist born in Rosine, Kentucky, conducted extensive historical research to produce an accurate artistic rendering of Daniel Boone leading settlers through the Cumberland Gap; and

WHEREAS, the Cumberland Gap National Historical Park displays David Wright's painting of Daniel Boone's passage through the Cumberland Gap to educate park visitors with historically accurate documented facts and images from American history;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The portrait of Daniel Boone entitled "Gateway to the West," by the Kentucky-born artist David Wright, is named and designated the official state Daniel Boone portrait.

HB 297, AN ACT relating to fire safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.336 is amended to read as follows:

Whenever the state fire marshal or any deputy state fire marshal appointed or employed by him makes any finding set forth in subsection (1) of KRS 227.330, or finds any property in violation of any provision of KRS 227.200 to 227.410 or any regulations adopted thereunder, in lieu of the order required in KRS 227.330(1), he may notify the owner or his agent in writing of such finding and violation and instruct him to correct the violation within a period of time to be determined at his discretion, but not to exceed sixty (60) days. Should the owner fail to make the required corrections within the specified time, the state fire marshal may proceed to take any other action authorized in this chapter. ***If a fire marshal has to make three (3) or more inspections to determine if the required corrections have been made, the state fire marshal shall charge fifty dollars ($50) for the third inspection and each inspection thereafter. In February of each odd-numbered year, the state fire marshal shall raise or lower the fifty dollar ($50) charge to the nearest whole dollar by the change in the consumer price index, as computed by the United States Department of Labor, since the last time the charge was set.***

The Committee Substitute to **HB 297** is as follows:

HB 297, AN ACT relating to fire safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.336 is amended to read as follows:

(1) Whenever the state fire marshal or any deputy state fire marshal appointed or employed by him ***or her*** makes any finding set forth in subsection (1) of KRS 227.330, or finds any property in violation of any provision of KRS 227.200 to 227.410 or any regulations adopted thereunder, in lieu of the order required in KRS 227.330(1), he ***or she shall***[~~may~~] notify the owner or his ***or her*** agent in writing of such ***specific*** finding and violation and instruct him ***or her*** to correct the violation within a period of time[~~ to be determined at his discretion, but~~] not to exceed sixty (60) days. Should the owner fail to make the required corrections within the specified time, the state fire marshal may proceed to take any other action authorized in this chapter.

(2) If the state fire marshal or a deputy state fire marshal is required to make additional inspections, beyond the initial inspection and one (1) follow-up inspection, to determine if the required corrections referred to in subsection (1) of this section have been made, the state fire marshal or the deputy state fire marshal shall assess a fee against the property owner to recover the cost of each additional inspection according to the following schedule:

Third inspection fee	***$100.00***
Fourth inspection fee	***$200.00***
Fifth and subsequent inspection fee	***$500.00***

(3) Any fee collected under the provisions of this section by the state fire marshal shall be payable to the State Treasury and credited to the Office of the State Fire Marshal for the operation of the general inspection program. Any fee collected under the provisions of this section by a deputy state fire marshal shall be payable to the fire department conducting the inspection.

(4) If during a follow-up inspection or any subsequent inspection for the same violation the state fire marshal or a deputy state fire marshal finds an additional violation not found during the initial inspection, such additional violation shall be treated as an initial violation which the property owner shall have the opportunity to correct under subsection (1) of this section prior to the assessment of a fee under subsection (2) of this section.

HB 364, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase or transfer of credit as provided in this section.

(2) (a) 1. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question under KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member by transfer, if authorized under subsection (7)(d) of this section, or in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(2).

(b) The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(3)[~~If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, under this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.~~

~~(4)~~] In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

[~~(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions under KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (3) of this section.~~]

(4)[~~(6)~~] A member who has qualified for benefits under KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by transfer, if authorized under subsection (7)(d) of this section, by lump sum, or by increments, as provided for in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(5)[~~(7)~~] (a) Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525 shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(b) Any active member of the Legislators Retirement Plan who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any otner public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(c) Any member of the Legislators Retirement Plan, who is in office on June 21, 2001, and who is in active contributing status to the applicable retirement plan on June 21, 2001, and who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(d) A member of the Legislators Retirement Plan may purchase service credit under the provisions of this section by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

Section 2. KRS 6.520 is amended to read as follows:

(1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be ***the assumed salary in KRS 61.510(13)***[~~two thousand two hundred ninety-one dollars sixty six cents ($2,291.66)~~].

(2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.

(3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement ***as provided in KRS 6.525***.

(4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement ***as provided in KRS 6.525***.

Section 3. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.360(1), 21.370 to 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, and 61.552 for the Judicial Retirement Plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a)***, except that the salary used to determine final compensation shall be based on the assumed salary in KRS 61.510(13) for service while a member of the General Assembly whether or not a member of the Legislators' Retirement Plan***. A member of the Legislators' Retirement Plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the

KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.

(3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

Section 4. KRS 6.577 is amended to read as follows:

(1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (5) of this section.

(2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.

(3) ***Depending on the months of service credit on which the retirement allowance was based, provided that there are at least forty-eight (48) months, all or a portion of*** the premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan ***as follows:***

Months of Service	***Percentage Paid***
48 to 119, inclusive	***25%***
120 to 131, inclusive	***50%***
132 to 143, inclusive	***55%***
144 to 155, inclusive	***60%***
156 to 167, inclusive	***65%***
168 to 179, inclusive	***70%***
180 to 191, inclusive	***75%***
192 to 203, inclusive	***80%***
204 to 215, inclusive	***85%***
216 to 227, inclusive	***90%***
228 to 239, inclusive	***95%***
240 or more	***100%***

The payments shall be made from the fund only if the recipient agrees to pay the remaining percentage, if any, from his monthly retirement allowance or by any other method equally insuring payment by him[~~, if the recipient had two hundred forty (240) months or more of service upon retirement. If the recipient had less than two hundred forty (240) months of service, but at least one hundred thirty two (132) months of service, fifty-five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had at least one hundred twenty (120) months of service, fifty percent (50%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. If the recipient had less than one hundred twenty (120) months of service but at least forty eight (48) months of service, twenty five percent (25%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method~~]. "Months of service" as used in this section shall not include service added to determine disability benefits.

(4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member.

(5) The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly

basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) Notwithstanding any other statute to the contrary, any member with at least forty-eight (48) months of legislative service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.

(a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. The state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

(b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

Section 5. KRS 21.530 is amended to read as follows:

For administrative purposes only, as hereinafter provided, the Legislators' Retirement Plan and the Judicial Retirement Plan shall be coordinated under the name, Judicial Form Retirement System, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the Governor, one (1) by the President of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) by the president and speaker jointly. The appointments by the Governor shall not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans. The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one (1) of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the Judicial Retirement Board in office on July 1, 1980, shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the Governor. Vacancies shall be filled by the appointing authority for the unexpired term. The members shall annually elect a chairman. ***Gubernatorial appointees, and judicial and legislative appointees***[~~Board members~~] who do not receive an annual salary from the State Treasury[~~,~~] in another capacity[~~,~~] shall receive an amount equal to the per diem compensation paid to members of the General Assembly for each day they are in session. All members shall be reimbursed for their necessary expenses.

Section 6. KRS 21.580 is amended to read as follows:

(1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:

(a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75), may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation", notwithstanding any provision to the contrary, for all members retiring under any provision of KRS 21.345 to 21.570 or this section, or similar statutes governing the same positions, as defined in KRS 21.400 shall be based on a period of thirty-six (36) months. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21, but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.

1. In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for

any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one (1) or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.

2. Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five (5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.

3. Subject to Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.

(b) The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that KRS 21.580 is effective; however, no other provisions of 2000 Ky. Acts ch. 305 shall be considered subject to an inviolable contract of the Commonwealth.

(c) Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age.

(2) The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on ***the effective date of this Act***[~~July 14, 2000~~], and who subsequently retires as a Senior Status Special Judge on or before January 31, 2009.

HB 384, AN ACT relating to the reorganization of the Department of State Police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Order 2002-1067, issued by the Governor on September 12, 2002, which reorganized the Department of State Police as follows:

(1) The Division of Forensic Services is established and shall be headed by a division director who shall report to the commissioner of state police through the deputy commissioner. The division shall coordinate and manage the laboratory and forensic activities and functions.

(2) The Administrative Division is renamed the Division of Executive Services.

(3) The Division of Operations is renamed the Division of Police Services.

(4) The Services Division is renamed the Division of Technical Services.

HB 461, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as

a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code***. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of Section 26 U.S.C. 132(f)(4)***;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a

retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and

(34) "Month" means a calendar month.

Section 2. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the ***chair of the board of trustees***~~[chairman]~~ or a trustee appointed by the ***chair***~~[chairman]~~ and the ***executive director of the systems***~~[general manager of the board of trustees]~~.

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 3. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;

(30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;

(31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;~~[and]~~

(32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703***; and***

(33) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637.

Section 4. KRS 48.315 is amended to read as follows:

(1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430;~~[16.565;]~~ 21.347; 21.540; 21.560; 42.500; 47.010; 48.010(13)(g); 56.100; 61.470;~~[61.580;]~~ 64.345; 64.350; 64.355;~~[78.650;]~~ 95A.220; 136.392; 138.510; 150.150; 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; 235.330; 248.540; 248.550; 278.130; 278.150; 287.485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.

(2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.

(3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. Any suspension or modification shall not extend beyond the duration of the budget bill.

Section 5. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. ***Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of Section 26 U.S.C. 132(f)(4)***;

(14) "Final compensation" of a member means:

  (a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

  (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

  (c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12)

month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) regular legislative sessions;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in

accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 6. KRS 61.520 is amended to read as follows:

(1) Each department ***determined by the board to be eligible and qualified for participation*** shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be ***determined by the board and*** fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, mental health-mental retardation board, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) Once a department participates it shall[~~ thereafter~~] continue to participate ***as long as it remains qualified***. Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.

Section 7. KRS 61.526 is amended to read as follows:

(1) Each employee on becoming a member of the Kentucky Employees Retirement System shall have on file in the retirement office, in the form as the board may prescribe, a statement of facts pertaining to the member. The statement shall include a record of military service, previous employment with the employer, and such other information as the system may require.

(2) If the records of the Personnel Cabinet or the department employing the member during the time the service was rendered do not substantiate the statement of service, the member shall be notified of any discrepancy. The member shall be advised that he has the responsibility of supplying verification of any unsubstantiated service.

(3) At the request of the member, or the beneficiary if the member is deceased, the ***executive director***[~~general manager~~] shall arrange a time and place to receive additional information in regard to the unverified service. After filing the request, the member or the beneficiary if the member is deceased, shall have a reasonable time but no more than six (6) months to present the additional information to substantiate the unverified service.

(4) The system may at any time conduct an audit of the employing department pursuant to KRS 61.675.

Section 8. KRS 61.540 is amended to read as follows:

(1) Under administrative regulations promulgated by the board, each member and each employer shall have on file at the retirement office, in the form the board prescribes, a statement of the facts pertaining to the member and other information the system requires. Until the statement is filed, no member or his beneficiary shall be eligible to receive any benefits under KRS 61.510 to 61.705 and 78.510 to 78.852.

(2) The system shall prepare and make available upon request to all members a summary plan description, written in a manner that can be understood by the average member or beneficiary, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705 and 78.510 to 78.852.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the ***executive director***[~~general manager~~], and the name, address and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A reasonable list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met; and

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The system may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and shall be made available upon request to members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The system shall make available upon request to retirees and beneficiaries the summary plan description.

Section 9. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of

the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not ***participate in***~~[have the option to be covered at the university by]~~ a defined benefit ***or defined contribution*** retirement program ***at the university***~~[, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2),]~~ may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County

Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) One (1) year of installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

(c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, ***dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary,***[~~the employee~~] shall have sixty (60) days to pay the remaining principal of the purchase by lump sum***,*** ***except that payment by the member shall be made prior to the effective retirement date***. If the ***member or beneficiary***[~~employee~~] does not pay the remaining cost[~~ or if the employee dies, retires, or does not continue~~

~~employment in a position required to participate in the retirement system~~], the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of

months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).

(23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

(26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).

Section 10. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who

shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties without limitation, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the ***chair***~~[chairman]~~ of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the ***chair***[~~chairman~~] or the executive director. It shall elect a ***chair***[~~chairman~~] and a vice ***chair***[~~chairman~~]. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.

(b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.

(c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:

1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;

2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;

3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;

4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;

5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;

6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;

7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;

8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other ***state and county*** employers to the extent provided for by statute or policy***. The Kentucky Retirement Systems may at the discretion of the board accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems***;

9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;

10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and

11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:

1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;
2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;
3. A classification plan including provisions describing class specifications, position actions, and employee actions;
4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;
5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, layoffs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;
6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and
7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.

(e) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(f) The board shall establish a system of accounting.

(g) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a)***, applicable federal regulations, and other published guidance***. Provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a)***, applicable federal regulations, and other published guidance*** shall not be available~~[to the member]~~. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a)***, including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9)***.

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the ***chair***[~~chairman~~] and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 11. KRS 61.650 is amended to read as follows:

(1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.

(b) The board may establish an investment committee whose members shall be appointed by the board ***chair***[~~chairperson~~]. The investment committee shall have authority to implement policy and act on behalf of the board on all investment-related matters with full power to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

(c) A trustee or other fiduciary shall discharge duties with respect to the retirement system:

1. Solely in the interest of the members and beneficiaries;
2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
4. Impartially, taking into account any differing interests of members and beneficiaries;
5. Incurring any costs that are appropriate and reasonable; and
6. In accordance with a good-faith interpretation of the law governing the retirement system.

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems[~~ of the Commonwealth of Kentucky~~]" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the ***chair of the board of trustees***[~~chairman~~] or a trustee appointed by the ***chair***[~~chairman~~] and the ***executive director of the systems***[~~general manager~~] of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 12. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The board may employ one (1) or more licensed mental health professionals as consultants to assist in making determinations where there is objective medical evidence of mental impairments.

(2) (a) Each employee requesting disability retirement shall file at the retirement office the names and addresses of all, but no fewer than two (2), physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. If an employee fails to file, at the retirement office within six (6) months of the date the employee filed his notification of retirement, any of the information required by this subsection, the employee's application for disability benefits shall be void.

(b) The employer shall file at the retirement office a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to one (1) additional medical examiner. If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. If there is objective medical evidence of mental impairments, the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment. Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the ***executive director***[~~general manager~~] shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the ***executive director***[~~general manager~~] shall notify the employee of this recommendation. The employee shall have sixty (60) days to file at the retirement office additional medical information or to appeal his denial for disability benefits by filing at the retirement office a request for a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may file at the retirement office a request for an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the ***executive director***~~[general manager]~~, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the ***chair***~~[chairman]~~ and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 13. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt,

the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code***. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of Section 26 U.S.C. 132(f)(4)***;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from

time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and

(32) "Month" means a calendar month.

Section 14. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky Retirement Systems~~[of the Commonwealth of Kentucky]~~ or nominee name as provided by KRS 287.225 and every change

in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the ***chair of the board of trustees***[~~chairman~~] or a trustee appointed by the ***chair***[~~chairman~~] and ***executive director of the systems***[~~general manager of the board of trustees~~].

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

The Committee Substitute to **HB 461** is as follows:

HB 461, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code***. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4)***;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and

(34) "Month" means a calendar month.

Section 2. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to

hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the ***chair of the board of trustees***[~~chairman~~] or a trustee appointed by the ***chair***[~~chairman~~] and the ***executive director of the systems***[~~general manager of the board of trustees~~].

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 3. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;

(30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;

(31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;[~~ and~~]

(32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703***; and***

(33) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637.

Section 4. KRS 48.315 is amended to read as follows:

(1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430;[~~ 16.565;~~]

21.347; 21.540; 21.560; 42.500; 47.010; 48.010(13)(g); 56.100; 61.470;~~[61.580;]~~ 64.345; 64.350; 64.355;~~[78.650;]~~ 95A.220; 136.392; 138.510; 150.150; 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; 230.400; 230.770; 235.330; 248.540; 248.550; 278.130; 278.150; 287.485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.

(2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.

(3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. Any suspension or modification shall not extend beyond the duration of the budget bill.

Section 5. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other

perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code***. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4)***;

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) regular legislative sessions;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 6. KRS 61.520 is amended to read as follows:

(1) Each department ***determined by the board to be eligible and qualified for participation*** shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be ***determined by the board and*** fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, mental health-mental retardation board, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) Once a department participates it shall[~~ thereafter~~] continue to participate ***as long as it remains qualified***. Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.

Section 7. KRS 61.526 is amended to read as follows:

(1) Each employee on becoming a member of the Kentucky Employees Retirement System shall have on file in the retirement office, in the form as the board may prescribe, a statement of facts pertaining to the member. The statement shall include a record of military service, previous employment with the employer, and such other information as the system may require.

(2) If the records of the Personnel Cabinet or the department employing the member during the time the service was rendered do not substantiate the statement of service, the member shall be notified of any discrepancy. The member shall be advised that he has the responsibility of supplying verification of any unsubstantiated service.

(3) At the request of the member, or the beneficiary if the member is deceased, the ***executive director***[~~general manager~~] shall arrange a time and place to receive additional information in regard to the unverified service. After filing the request, the member or the beneficiary if the member is deceased, shall have a reasonable time but no more than six (6) months to present the additional information to substantiate the unverified service.

(4) The system may at any time conduct an audit of the employing department pursuant to KRS 61.675.

Section 8. KRS 61.540 is amended to read as follows:

(1) Under administrative regulations promulgated by the board, each member and each employer shall have on file at the retirement office, in the form the board prescribes, a statement of the facts pertaining to the member and other information the system requires. Until the statement is filed, no member or his beneficiary shall be eligible to receive any benefits under KRS 61.510 to 61.705 and 78.510 to 78.852.

(2) The system shall prepare and make available upon request to all members a summary plan description, written in a manner that can be understood by the average member or beneficiary, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705 and 78.510 to 78.852.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the ***executive director***[~~general manager~~], and the name, address and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A reasonable list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met; and

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The system may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and shall be made available upon request to members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The system shall make available upon request to retirees and beneficiaries the summary plan description.

Section 9. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not ***participate in***~~[have the option to be covered at the university by]~~ a defined benefit ***or defined contribution*** retirement program ***at the university***~~[, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2),]~~ may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for ***interim,*** seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) One (1) year of installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

(c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, ***dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary,***~~[the employee]~~ shall have sixty (60) days to pay the remaining principal of the purchase by lump sum, ***except that payment by the member shall be made prior to the effective retirement date***. If the ***member or beneficiary***~~[employee]~~ does not pay the remaining cost~~[or if the employee dies, retires, or does not continue employment in a position required to participate in the retirement system]~~, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the

extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).

(23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for

the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

(26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).

(29) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (28) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:

- ***(a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;***
- ***(b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and***
- ***(c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.***

Section 10. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

- (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
- (b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
- (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
- (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
- (e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:

- (a) To sue and be sued in its corporate name;
- (b) To make bylaws not inconsistent with the law;
- (c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties without limitation, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the ***chair***[~~chairman~~] of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the ***chair***[~~chairman~~] or the executive director. It shall elect a ***chair***[~~chairman~~] and a vice ***chair***[~~chairman~~]. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.

(b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.

(c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:

1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;

2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;

3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;

4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;

5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;

6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;

7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;

8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other ***state and county*** employers to the extent provided for by statute or policy***. The Kentucky Retirement Systems may at the discretion of the board accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems***;

9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;

10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and

11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:

1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;

2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;

3. A classification plan including provisions describing class specifications, position actions, and employee actions;

4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;

5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, layoffs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;

6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers'

compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and

7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.

(e) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(f) The board shall establish a system of accounting.

(g) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a)***, applicable federal regulations, and other published guidance***. Provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a)***, applicable federal regulations, and other published guidance*** shall not be available~~[to the member]~~. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a)***, including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9)***.

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the ***chair***[~~chairman~~] and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 11. KRS 61.650 is amended to read as follows:

(1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.

(b) The board may establish an investment committee whose members shall be appointed by the board ***chair***[~~chairperson~~]. The investment committee shall have authority to implement policy and act on behalf of the board on all investment-related matters with full power to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

(c) A trustee or other fiduciary shall discharge duties with respect to the retirement system:

1. Solely in the interest of the members and beneficiaries;

2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;

3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;

4. Impartially, taking into account any differing interests of members and beneficiaries;

5. Incurring any costs that are appropriate and reasonable; and

6. In accordance with a good-faith interpretation of the law governing the retirement system.

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems[~~ of the Commonwealth of Kentucky~~]" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the ***chair of the board of trustees***[~~chairman~~] or a trustee appointed by the ***chair***[~~chairman~~] and the ***executive director of the systems***[~~general manager~~] of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 12. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person

under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The board may employ one (1) or more licensed mental health professionals as consultants to assist in making determinations where there is objective medical evidence of mental impairments.

(2) (a) Each employee requesting disability retirement shall file at the retirement office the names and addresses of all, but no fewer than two (2), physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. If an employee fails to file, at the retirement office within six (6) months of the date the employee filed his notification of retirement, any of the information required by this subsection, the employee's application for disability benefits shall be void.

(b) The employer shall file at the retirement office a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to one (1) additional medical examiner. If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. If there is objective medical evidence of mental impairments, the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment. Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the ***executive director***~~[general manager]~~ shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the ***executive director***~~[general manager]~~ shall notify the employee of this recommendation. The employee shall have sixty (60) days to file at the retirement office additional medical information or to appeal his denial for disability benefits by filing at the retirement office a request for a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may file at the retirement office a request for an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the ***executive director***~~[general manager]~~, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the ***chair***[~~chairman~~] and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 13. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the

employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code***. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4)***;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and

(32) "Month" means a calendar month.

Section 14. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky Retirement Systems~~[of the Commonwealth of Kentucky]~~ or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the ***chair of the board of trustees***~~[chairman]~~ or a trustee appointed by the ***chair***~~[chairman]~~ and ***executive director of the systems***~~[general manager of the board of trustees]~~.

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

The Committee on Appropriations and Revenue reported **HB 269,** with Committee Substitutes and Committee Amendments attached thereto, **HJR 82,** and **HJR 83** with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Second Committee Substitute to **HB 269** is as follows:

HB 269, AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part XI, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2002-03	2003-04
General Fund	7,452,100	7,517,600
Restricted Funds	1,681,000	2,144,000
Federal Funds	71,000	71,000
TOTAL	9,204,100	9,732,600

Included in the above General Fund appropriation is $750,000 in fiscal year 2003-2004, which shall be transferred to the credit of the General Fund, effective December 1, 2003. Included in the above General Fund appropriation is $250,000 in fiscal year 2003-2004 which shall be utilized to provide the state's share of federal matching requirements for a grant from the U.S. Department of Energy to the Purchase Area in Western Kentucky to support land use and development in the Purchase Regional Industrial Park Authority. Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Office of State Budget Director

	2002-03	2003-04
General Fund	3,365,000	3,365,000
Restricted Funds	923,000	1,318,000
TOTAL	4,288,000	4,683,000

c. State Planning Fund

	2002-03	2003-04
General Fund	477,000	0

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a grant of $25,000 in fiscal year 2002-2003 to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2002-03	2003-04
General Fund	11,294,100	10,882,600
Restricted Funds	2,604,000	3,462,000
Federal Funds	71,000	71,000
TOTAL	13,969,100	14,415,600

2. GOVERNOR'S OFFICE FOR TECHNOLOGY

	2002-03	2003-04
General Fund	300,000	300,000
Restricted Funds	60,092,500	59,718,000
Federal Funds	1,225,000	0
Road Fund	125,000	125,000
TOTAL	61,742,500	60,143,000

Included in the above Restricted Funds appropriation is $536,000 in fiscal year 2002-2003 and $536,000 in fiscal year 2003-2004 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Chief Information Officer (CIO) shall approve, the cost allocation plan. Upon approval by the CIO, the agencies and universities shall pay their proportional share of the plan.

3. DEPARTMENT OF VETERANS' AFFAIRS

	2002-03	2003-04
General Fund	14,072,800	15,163,700
Restricted Funds	18,609,100	19,332,000
TOTAL	32,681,900	34,495,700

4. GOVERNOR'S OFFICE OF EARLY CHILDHOOD DEVELOPMENT

	2002-03	2003-04
General Fund (Tobacco)	2,188,400	2,188,400
General Fund	213,500	213,500
Restricted Funds	50,000	0
Federal Funds	175,000	175,000
TOTAL	2,626,900	2,576,900

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2002-03	2003-04
General Fund	0	3,311,000
Restricted Funds	6,067,500	2,568,000
Federal Funds	50,313,000	50,312,000
TOTAL	56,380,500	56,191,000

Included in the above General Fund appropriation is $3,311,000 in fiscal year 2003-2004 for debt service, including $2,283,000 for the Kentucky Pride Program.

6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2002-03	2003-04
General Fund (Tobacco)	47,688,000	39,434,000
Restricted Funds	155,900	161,000
TOTAL	47,843,900	39,595,000

7. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2002-03	2003-04
General Fund (Tobacco)	2,574,800	2,236,600
General Fund	1,250,000	1,250,000
Federal Funds	111,700	111,700
TOTAL	3,936,500	3,598,300

8. SECRETARY OF STATE

	2002-03	2003-04
General Fund	4,360,100	2,260,100
Restricted Funds	878,500	1,006,600
TOTAL	5,238,600	3,266,700

Included in the above General Fund appropriation is $2,100,000 in fiscal year 2002-2003 (contingent upon the passage of enabling legislation) which directs the Secretary of State to implement the provisions of the Help America Vote Act as stated in Part IX, Special Provisions, of this Act. Notwithstanding KRS 45.229, any funds unexpended by the Secretary of State from the Election Reform Fund at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund shall not lapse, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in the enabling legislation. Notwithstanding KRS 14.140, the above Restricted Funds appropriations shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch.

9. BOARD OF ELECTIONS

	2002-03	2003-04
General Fund	1,281,200	1,188,400
Restricted Funds	108,600	116,900
TOTAL	1,389,800	1,305,300

Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay under the provisions of KRS 116.145, 117.343, and 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

10. TREASURY

	2002-03	2003-04
General Fund	2,216,700	2,216,700
Restricted Funds	815,700	834,500
TOTAL	3,032,400	3,051,200

Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2002-2004 biennium, $807,900 and $834,500 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Treasury Department.

11. ATTORNEY GENERAL

	2002-03	2003-04
General Fund	13,075,000	13,381,700
Restricted Funds	6,747,400	7,269,900
Federal Funds	2,351,400	2,351,400
TOTAL	22,173,800	23,003,000

Included in the above General Fund appropriation is $120,100 in fiscal year 2002-2003 and $449,200 in fiscal year 2003-2004 for an 11 percent salary adjustment for staff attorneys, effective April 1, 2003.

The $30,000 continuing General Fund appropriation from fiscal year 2001-2002 is for the purpose of notifying consumers, not otherwise notified by Ford Motor Company, of their eligibility for possible restitution as a result of the multistate settlement agreement with Ford Motor Company. Since the settlement award was not deposited prior to the end of fiscal year 2001-2002, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement did not lapse, notwithstanding KRS 45.229, and was carried forward into fiscal year 2002-2003 for the same purpose. If the settlement award is deposited subsequent to fiscal year 2002-2003, the General Fund appropriation for the notification of consumers regarding the Ford Motor Company settlement shall not lapse, notwithstanding KRS 45.229, and shall be carried forward into fiscal year 2003-2004 for the same purpose.

12. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	2002-03	2003-04
General Fund	25,108,000	26,545,300
Restricted Funds	843,300	200,000
Federal Funds	976,300	739,300
TOTAL	26,927,600	27,484,600

Included in the above General Fund appropriation is $258,400 in fiscal year 2002-2003 and $259,400 in fiscal year 2003-2004 to support a Commonwealth's Attorney and staff to service the 57th Judicial Circuit as authorized by the 2001 General Assembly.

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the Commonwealth's Attorneys.

Included in the above General Fund appropriation are funds to provide each full-time Commonwealth's Attorney the sum of $1,000 each month, which is declared to be the equivalent of the minimum sum that the Commonwealth's Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Included in the above General Fund appropriation is $116,200 in fiscal year 2002-2003 and $106,400 in fiscal year 2003-2004 to provide funding for a full-time Commonwealth's Attorney office in the 40th Judicial Circuit.

Notwithstanding KRS 15.247, 15.705, and 15.750 funds are authorized to support the operations of the Commonwealth's Attorneys.

b. County Attorneys

	2002-03	2003-04
General Fund	21,179,900	22,177,500
Restricted Funds	62,300	4,800
Federal Funds	414,700	434,800
TOTAL	21,656,900	22,617,100

Notwithstanding KRS 218A.435(12), second sentence, which reads, "The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.", funds are recommended for appropriation to support the operations of the County Attorneys.

Included in the above General Fund appropriation are funds to provide each County Attorney the sum of $500 each month, which is declared to be the equivalent of the minimum sum that each County Attorney will expend each month in the performance of the official duties directed to be performed for the Commonwealth.

Notwithstanding KRS 15.247 and 15.705, funds are authorized to support the operations of the County Attorneys.

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2002-03	2003-04
General Fund	46,287,900	48,722,800
Restricted Funds	905,600	204,800
Federal Funds	1,391,000	1,174,100
TOTAL	48,584,500	50,101,700

13. AUDITOR OF PUBLIC ACCOUNTS

	2002-03	2003-04
General Fund	5,260,000	5,235,000
Restricted Funds	3,940,500	4,377,100
TOTAL	9,200,500	9,612,100

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

14. AGRICULTURE

	2002-03	2003-04
General Fund	19,199,900	19,464,900
Restricted Funds	3,506,200	3,573,800
Federal Funds	2,955,000	2,130,000
TOTAL	25,661,100	25,168,700

Included in the above General Fund appropriation is $478,500 in fiscal year 2002-2003 and $478,500 in fiscal year 2003-2004 for the Breathitt Veterinary Center and $370,000 in fiscal year 2002-2003 and $370,000 in fiscal year 2003-2004 for the University of Kentucky for the diagnostic laboratories.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended General Fund moneys appropriated for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint trade office.

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.335. Included in the above General Fund appropriation is $285,000 in fiscal year 2003-2004 for debt service for animal shelter projects.

Included in the General Fund appropriation for the Department of Agriculture is $10,000 in fiscal year 2002-2003 and

$10,000 in fiscal year 2003-2004 to support the costs associated with preparing reports for the Kentucky Aquaculture Task Force as directed in Part IX, Special Provisions, Government Operations, Department of Agriculture, in this Act. Notwithstanding KRS 45.229, any unexpended amount at the end of fiscal year 2002-2003 shall not lapse, but shall carry forward to fiscal year 2003-2004. Any unexpended amount remaining following the completion of the reports shall lapse to the credit of the General Fund.

15. MILITARY AFFAIRS

	2002-03	2003-04
General Fund	10,694,400	10,694,400
Restricted Funds	18,680,500	18,796,200
Federal Funds	40,720,900	18,187,800
TOTAL	70,095,800	47,678,400

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is $420,000 in each fiscal year for the Youth Challenge Program.

16. PERSONNEL BOARD

	2002-03	2003-04
General Fund	578,500	578,500
Restricted Funds	1,700	1,700
TOTAL	580,200	580,200

17. LOCAL GOVERNMENT

	2002-03	2003-04
General Fund	8,773,900	9,623,800
Restricted Funds	2,235,800	902,400
Federal Funds	52,433,900	52,430,800
TOTAL	63,443,600	62,957,000

Included in the above General Fund appropriation is $1,086,000 in fiscal year 2003-2004 for debt service.

18. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2002-03	2003-04
General Fund	32,866,200	31,184,100

b. Local Government Economic Development Fund

	2002-03	2003-04
General Fund	40,028,300	41,208,400

The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Notwithstanding KRS 42.4582, moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of 47 percent effective July 1, 2002. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at 50 percent effective July 1, 2003. If actual coal severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 has been credited to the Trover Clinic Grant within the Department for Local Government.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,407,100 in fiscal year 2002-2003 and $1,480,200 in fiscal year 2003-2004 has been credited to the

Osteopathic Scholarship Program within the Kentucky Higher Education Assistance Authority.

Notwithstanding KRS 42.4585, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to 14.5 percent in fiscal year 2002-2003. In fiscal year 2003-2004 the amount shall be equal to 15 percent of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 has been transferred as Restricted Funds to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004, has been transferred as Restricted Funds to the Department for Regional Development within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $550,000 in fiscal year 2002-2003 and $550,000 in fiscal year 2003-2004 has been credited to the Kentucky Appalachian Commission and Appalachian Regional Commission for related expenditures.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $960,800 in fiscal year 2002-2003 and $960,800 in fiscal year 2003-2004 has been credited to the Secondary Wood Products Development Fund. The Kentucky Wood Products Competitiveness Corporation shall emphasize job creation in the Eastern and Western Kentucky Coal Regions.

Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $100,000 in fiscal year 2002-2003 and $100,000 in fiscal year 2003-2004 has been credited to the Kentucky Coal Coalition from funds available to the Department for Local Government.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $5,000,000 in each year of the biennium that shall be reserved for the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and 42.4588(5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Cabinet for Economic Development and approved by the Commissioner of the Department for Regional Development in the Cabinet for Economic Development. The projects identified are limited to research and development, commercialization, or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects shall be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

Notwithstanding KRS 42.4588, the Commissioner of the Department for Regional Development, in consultation with affected counties, shall be authorized to approve Local Government Economic Development Fund grants for job training and telecommunications infrastructure projects. The Commissioner is further authorized to prioritize funding of projects in the following order: industrial development projects, job training projects, and any other eligible projects or projects funded out of the Local Government Economic Development Fund.

Notwithstanding KRS 42.4588, the Cabinet for Economic Development is authorized to provide, in fiscal year 2002-2003, $1,000,000 for the East Kentucky Development Alliance to support a revolving loan fund, $1,000,000 to support the Appalachian Regional Hospital Project, and $2,000,000 for the Appalachia Bus Program from the Local Government Economic Development Fund Multi-County Fund.

Pursuant to the authority given in KRS 42.485, the continuing appropriation amount from fiscal year 2001-2002 to fiscal year 2002-2003 and from fiscal year 2002-2003 to fiscal year 2003-2004 shall equal the dollar amount that the Local Government Economic Development and Local Government Economic Assistance Funds have the statutory authority to expend.

c. Area Development Fund

	2002-03	2003-04

General Fund	830,500	830,500

Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2002-03	2003-04
General Fund	73,725,000	73,223,000

19. COMMISSION ON HUMAN RIGHTS

	2002-03	2003-04
General Fund	1,926,800	1,926,800
Restricted Funds	24,000	24,000
Federal Funds	572,600	170,800
TOTAL	2,523,400	2,121,600

20. COMMISSION ON WOMEN

	2002-03	2003-04
General Fund	269,900	269,900
Restricted Funds	0	4,600
Federal Funds	0	200
TOTAL	269,900	274,700

21. COMMISSION ON SMALL BUSINESS ADVOCACY

	2002-03	2003-04
General Fund	75,000	75,000
Restricted Funds	45,000	45,000
TOTAL	120,000	120,000

22. KENTUCKY RETIREMENT SYSTEMS

	2002-03	2003-04
Restricted Funds	14,980,500	15,847,500

23. REGISTRY OF ELECTION FINANCE

	2002-03	2003-04
General Fund	1,436,800	1,436,800
Restricted Funds	202,800	203,200
TOTAL	1,639,600	1,640,000

24. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	2002-03	2003-04
Restricted Funds	752,700	782,100

b. Alcohol and Drug Counselors

	2002-03	2003-04
Restricted Funds	62,000	65,000

c. Board of Architects

	2002-03	2003-04
Restricted Funds	272,000	258,300

d. Board of Art Therapists

	2002-03	2003-04
Restricted Funds	11,300	11,400

e. Kentucky Athletic Commission

	2002-03	2003-04
Restricted Funds	158,500	167,300

f. Board of Auctioneers

	2002-03	2003-04

Restricted Funds	360,200	370,500

g. Board of Barbering

	2002-03	2003-04
Restricted Funds	225,600	231,500

h. Board of Chiropractic Examiners

	2002-03	2003-04
Restricted Funds	182,800	191,400

i. Board of Dentistry

	2002-03	2003-04
Restricted Funds	474,400	504,400

j. Board of Dietitians and Nutritionists

	2002-03	2003-04
Restricted Funds	67,900	71,500

k. Board of Embalmers and Funeral Directors

	2002-03	2003-04
Restricted Funds	240,400	249,100

l. Board of Engineers and Land Surveyors

	2002-03	2003-04
Restricted Funds	1,291,800	1,354,100

m. Board of Fee-Based Pastoral Counselors

	2002-03	2003-04
Restricted Funds	6,000	6,000

n. Board of Geologists

	2002-03	2003-04
Restricted Funds	133,000	135,000

o. Board of Hairdressers and Cosmetologists

	2002-03	2003-04
Restricted Funds	998,900	1,105,000

The Board of Hairdressers and Cosmetologists is permitted to increase the licensing and renewal fees necessary to provide for the enacted budget expenditure level through administrative regulation.

p. Board of Hearing Instrument Specialists

	2002-03	2003-04
Restricted Funds	50,700	52,700

q. Board of Interpreters for Deaf and Hard of Hearing

	2002-03	2003-04
Restricted Funds	25,000	25,000

r. Board of Landscape Architects

	2002-03	2003-04
Restricted Funds	55,300	57,800

s. Board of Marriage and Family Therapists

	2002-03	2003-04
Restricted Funds	79,200	83,200

t. Board of Medical Licensure

	2002-03	2003-04
Restricted Funds	1,992,500	2,099,900

u. Board of Nursing

	2002-03	2003-04
Restricted Funds	4,695,300	4,268,900

Included in the above Restricted Funds appropriation is $175,000 in each fiscal year for the Nursing Incentive Scholarship

Program.

v. Nursing Home Administrators Licensure Board

	2002-03	2003-04
Restricted Funds	69,000	76,200

w. Board of Occupational Therapy

	2002-03	2003-04
Restricted Funds	76,600	86,000

x. Board of Ophthalmic Dispensers

	2002-03	2003-04
Restricted Funds	57,600	62,900

y. Board of Optometric Examiners

	2002-03	2003-04
Restricted Funds	152,400	157,000

z. Board of Pharmacy

	2002-03	2003-04
Restricted Funds	835,000	876,000

aa. Board of Physical Therapy

	2002-03	2003-04
Restricted Funds	263,400	280,000

ab. Board of Podiatry

	2002-03	2003-04
Restricted Funds	14,500	15,500

ac. Board of Professional Counselors

	2002-03	2003-04
Restricted Funds	49,700	51,700

ad. Board of Proprietary Education

	2002-03	2003-04
Restricted Funds	123,000	134,300

ae. Board of Psychology

	2002-03	2003-04
Restricted Funds	169,600	176,100

af. Real Estate Appraisers Board

	2002-03	2003-04
Restricted Funds	614,900	631,900

ag. Real Estate Commission

	2002-03	2003-04
Restricted Funds	2,003,100	2,302,900

Included in the above Restricted Funds appropriation is $966,700 in fiscal year 2002-2003 and $1,224,000 in fiscal year 2003-2004 for Real Estate Education and Recovery.

ah. Board of Respiratory Care

	2002-03	2003-04
Restricted Funds	182,700	188,600

ai. Board of Social Workers

	2002-03	2003-04
Restricted Funds	141,300	145,300

aj. Board of Speech Pathologists and Audiologists

	2002-03	2003-04
Restricted Funds	83,000	86,000

ak. Board of Veterinary Examiners

	2002-03	2003-04
Restricted Funds	228,300	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2002-03	2003-04
Restricted Funds	17,199,600	17,598,300

25. EDUCATION PROFESSIONAL STANDARDS BOARD

	2002-03	2003-04
General Fund	12,433,800	11,097,000
Restricted Funds	1,378,500	829,600
Federal Funds	3,020,300	4,379,200
TOTAL	16,832,600	16,305,800

Notwithstanding KRS 161.134, $800,000 in fiscal year 2002-2003 and $800,000 in fiscal year 2003-2004 is provided for National Board of Teaching Standards Certification from the General Fund.

Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

Included in the above General Fund appropriation is $2,000,000 in fiscal year 2002-2003 for the establishment of the Teacher Education Model Program.

Notwithstanding KRS 45.229, the above General Fund support appropriated for the Teacher Education Model Program shall not lapse in fiscal year 2002-2003, but be carried forward to fiscal year 2003-2004 for the purposes of providing program services in fiscal year 2003-2004.

26. BOARD OF EMERGENCY MEDICAL SERVICES

	2002-03	2003-04
General Fund	2,504,300	2,504,300
Restricted Funds	168,300	171,700
Federal Fund	362,800	100,000
TOTAL	3,035,400	2,776,000

27. GOVERNMENTAL SERVICES CENTER

	2002-03	2003-04
Restricted Funds	1,462,000	1,516,000

28. EXECUTIVE BRANCH ETHICS COMMISSION

	2002-03	2003-04
General Fund	325,900	325,900
Restricted Funds	300	2,400
TOTAL	326,200	328,300

29. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	2002-03	2003-04
General Fund	0	0

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2001-2002 or fiscal year 2002-2003 shall not lapse but shall be carried forward into fiscal years 2002-2003 and 2003-2004, respectively.

b. Attorney General Expense

	2002-03	2003-04
General Fund	225,000	225,000

c. Board of Claims Awards

	2002-03	2003-04
General Fund	600,000	600,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2002-03	2003-04
General Fund	3,200,000	3,400,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2002-03	2003-04
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2002-03	2003-04
General Fund	1,000,000	1,000,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	2002-03	2003-04
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	2002-03	2003-04
General Fund	195,000	195,000

i. Frankfort Cemetery

	2002-03	2003-04
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	2002-03	2003-04
General Fund	250,000	250,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	2002-03	2003-04
General Fund	200,000	200,000

l. Master Commissioner--Social Security

	2002-03	2003-04
General Fund	313,000	343,000

m. Workers' Compensation

	2002-03	2003-04
General Fund	502,000	532,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	2002-03	2003-04
General Fund	60,000	60,000

o. Blanket Employee Bonds

	2002-03	2003-04
General Fund	100,000	100,000

p. Necessary Government Expenses

	2002-03	2003-04
General Fund	5,629,000	0

Included in the above appropriation for fiscal year 2002-2003 is $29,000 authorized for the Commonwealth's Attorneys budget unit, $1,000,000 authorized for the ANOC-Unredeemed Checks budget unit, $3,950,000 authorized for the Military Affairs budget unit, $50,000 authorized for the Executive Branch Ethics Commission, and $600,000 authorized for the Board of Claims.

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2002-03	2003-04
General Fund	12,736,500	7,367,500

Included in the above appropriations is $0 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

30. KENTUCKY RIVER AUTHORITY

Budget Units

	2002-03	2003-04
General Fund	379,000	379,000
Restricted Funds	3,266,000	3,698,000
TOTAL	3,645,000	4,077,000

TOTAL - GOVERNMENT OPERATIONS

	2002-03	2003-04
General Fund (Tobacco)	52,451,200	43,859,000
General Fund	244,671,000	243,092,300
Restricted Funds	164,126,500	162,265,200
Federal Funds	155,703,600	131,594,000
Road Fund	125,000	125,000
TOTAL	617,077,300	580,935,500

B. CABINET FOR ECONOMIC DEVELOPMENT

31. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Office of the Secretary

	2002-03	2003-04
General Fund	1,392,700	1,380,300
Restricted Funds	4,575,200	4,612,800
TOTAL	5,967,900	5,993,100

Included in the above Restricted Funds appropriation is $472,000 in fiscal year 2002-2003 and $472,000 in fiscal year 2003-2004 for the East Kentucky Jobs Creation Corporation and $467,000 in fiscal year 2002-2003 and $467,000 in fiscal year 2003-2004 for the West Kentucky Jobs Creation Corporation. Also included in the above Restricted Funds appropriation is $770,500 in fiscal year 2002-2003 and $783,600 in fiscal year 2003-2004 for the Regional Development Office. Notwithstanding KRS 42.4592, the Restricted Funds appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Regional Development Office shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center.

Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2002-2003 and $420,800 in fiscal year 2003-2004 for the Louisville Waterfront Development Corporation.

Included in the above Restricted Funds appropriation is $2,144,900 in fiscal year 2002-2003 and $2,169,400 in fiscal year 2003-2004 for the Office of the Commissioner for the New Economy, including up to $1,300,000 in each year for Innovation and Commercialization Centers. Notwithstanding KRS 164.6019, 164.6021, 164.6027, 164.6029, 164.6035, and 164.6037, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the appropriations, as necessary but not to exceed $1,969,400 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 from the Council on Postsecondary Education, Science and Technology Funding Program, shall be transferred to the Office of the Commissioner for the New Economy. The Office of State Budget Director shall certify the transfer.

b. Administration and Program Support

	2002-03	2003-04
General Fund	2,179,900	2,111,100
Restricted Funds	29,800	45,900
TOTAL	2,209,700	2,157,000

c. Business Development

	2002-03	2003-04
General Fund	2,517,900	2,475,500
Restricted Funds	248,800	290,600
TOTAL	2,766,700	2,766,100

d. Financial Incentives

	2002-03	2003-04
General Fund	3,343,800	5,051,800
Restricted Funds	2,182,700	2,227,300
TOTAL	5,526,500	7,279,100

Included in the above General Fund appropriation is $1,826,000 in fiscal year 2003-2004 for debt service for new bonds.

Notwithstanding KRS 45.229, the General Fund appropriation for fiscal year 2001-2002 and for fiscal year 2002-2003 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 154.12-278 by which the Kentucky Economic Development Finance Authority (KEDFA) authorized a grant of up to $1,300,000 in fiscal year 2001-2002 to the Kentucky Science and Technology Corporation, a maximum of $900,000 of the authorized amount shall be conveyed for expenditure. The remaining funding shall be retained and shall be appropriated to the Office of the Commissioner for the New Economy to be used to fund Innovation and Commercialization grants.

Moneys available to the Kentucky Economic Development Finance Authority (KEDFA) under KRS 154.20-010 to 154.20-180 shall be used exclusively for the purposes of those statutes or as expressly provided for in this Act.

e. Community Development

	2002-03	2003-04
General Fund	2,855,900	2,879,100
Restricted Funds	440,100	454,000
Federal Funds	157,100	155,400
TOTAL	3,453,100	3,488,500

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	2002-03	2003-04
General Fund	12,290,200	13,897,800
Restricted Funds	7,476,600	7,630,600
Federal Funds	157,100	155,400
TOTAL	19,923,900	21,683,800

C. EDUCATION

32. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	2002-03	2003-04
General Fund	2,280,892,100	2,349,962,100

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky Program.

The above appropriations include $1,800,114,900 in fiscal year 2002-2003 and $1,863,965,500 in fiscal year 2003-2004 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for base SEEK is $202,216,300 in fiscal year 2002-2003 and $212,106,200 in fiscal year 2003-2004 for pupil transportation.

Included in the above appropriation is $136,184,400 in fiscal year 2002-2003 and $135,083,500 in fiscal year 2003-2004 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,416,900 in fiscal year 2002-2003 and $2,416,900 in fiscal year 2003-2004 for vocational transportation.

Included in the above appropriation is $21,452,600 in fiscal year 2002-2003 and $21,452,600 in fiscal year 2003-2004 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $58,759,400 in fiscal year 2002-2003 and $56,253,600 in fiscal year 2003-2004 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620.

Included in the above appropriation is $261,363,900 in fiscal year 2002-2003 and $270,190,000 in fiscal year 2003-2004 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

Notwithstanding KRS 157.395, included in the above appropriation is $600,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards.

b. Executive Policy and Management

	2002-03	2003-04
General Fund	1,196,800	1,184,900

c. Operations and Support Services

	2002-03	2003-04
General Fund	11,341,800	11,425,700
Restricted Funds	2,187,900	2,264,400
Federal Funds	562,500	573,800
TOTAL	14,092,200	14,263,900

Included in the above General Fund appropriation is $2,503,800 in fiscal year 2002-2003 and $2,553,900 in fiscal year 2003-2004 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

Included in the above General Fund appropriation in fiscal year 2003-2004 is $143,000 to provide for debt service for Bond Funds totaling $1,517,000 for capital projects relating to the Kentucky School for Deaf and the Kentucky School for the Blind as provided in Part II, Capital Projects Budget, in this Act.

d. Learning and Results Services

	2002-03	2003-04
General Fund	569,527,500	589,477,700
Restricted Funds	5,850,700	5,851,200
Federal Funds	491,060,800	497,995,000
TOTAL	1,066,439,000	1,093,323,900

Included in the above General Fund appropriation is $15,000,000 in fiscal year 2002-2003 and $20,000,000 in fiscal year 2003-2004 for the education technology escrow account.

Included in the above General Fund appropriation is $10,800,000 in fiscal year 2002-2003 and $10,800,000 in fiscal year 2003-2004 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

Included in the above General Fund appropriation is $100,000 in fiscal year 2003-2004 to provide funds for buildings and grounds for local school district number 155.

Included in the above General Fund appropriation is $277,397,000 in fiscal year 2002-2003 and $309,119,400 in fiscal year 2003-2004 to provide health insurance and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $4,060,000 in fiscal year 2002-2003 and $10,049,500 in fiscal year

2003-2004 for the school rewards escrow account.

Included in the above General Fund appropriation is $5,421,100 in fiscal year 2002-2003 and $5,659,500 in fiscal year 2003-2004 for the Kentucky School for the Blind, and $9,139,800 in fiscal year 2002-2003 and $9,559,300 in fiscal year 2003-2004 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $1,750,000 in fiscal year 2002-2003 and $1,750,000 in fiscal year 2003-2004 for the Community Education Program; $1,750,000 is established as the base level budget for the Community Education Program within the Kentucky Department of Education. Included in the $1,750,000 appropriation in fiscal year 2002-2003 is $1,700,000 for community education grants to support community education director salaries and $50,000 to support community education director training and the state advisory council. Included in the $1,750,000 appropriation in fiscal year 2003-2004 is $1,700,000 for community education grants to support community education director salaries and $50,000 to support community education director training and the state advisory council.

TOTAL - EDUCATION

	2002-03	2003-04
General Fund	2,862,958,200	2,952,050,400
Restricted Funds	8,038,600	8,115,600
Federal Funds	491,623,300	498,568,800
TOTAL	3,362,620,100	3,458,734,800

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

33. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	3,351,300	3,351,300
Restricted Funds	448,900	236,700
TOTAL	3,800,200	3,588,000

Included in the above General Fund appropriation is $1,470,900 in each fiscal year for the Governor's Scholars Program.

Included in the above General Fund appropriation is $405,000 in fiscal year 2002-2003 and $405,000 in fiscal year 2003-2004 for the Governor's School for the Arts.

Included in the above Restricted Funds appropriation is $400,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

Up to $30,000 in General Fund support each year is available to be transferred to the Environmental Education Council for additional support.

34. KENTUCKY ARTS COUNCIL

	2002-03	2003-04
General Fund	4,523,800	4,523,800
Restricted Funds	782,800	612,500
Federal Funds	692,800	621,100
TOTAL	5,999,400	5,757,400

35. TEACHERS' RETIREMENT SYSTEM

	2002-03	2003-04
General Fund	90,113,200	97,489,000
Restricted Funds	7,330,100	7,571,900
TOTAL	97,443,300	105,060,900

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2002-2003 or fiscal year 2003-2004 for the cost of administration.

Included in the above General Fund appropriation is $3,668,400 in fiscal year 2002-2003 and $7,636,700 in fiscal year 2003-2004 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2002-

2004 biennium.

Included in the above General Fund appropriation is $694,800 in fiscal year 2002-2003 and $1,451,800 in fiscal year 2003-2004 to increase minimum value payments for members qualifying under provisions of KRS 161.620(3).

Included in the above General Fund appropriation is $1,179,900 in fiscal year 2003-2004 to make up for an underappropriation during fiscal year 2000-2001 under the provisions of KRS 161.550.

Included in the above General Fund appropriation is $4,406,000 in fiscal year 2002-2003 and $9,213,400 in fiscal year 2003-2004 to provide, when combined with the annual one and one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and nine-tenths percent in fiscal year 2002-2003 and an additional three percent in fiscal year 2003-2004.

Given enactment of 2002 Ky. Acts ch. 275, the amount of $1,652,000 from the above General Fund appropriation shall lapse to the credit of the General Fund at the end of fiscal year 2002-2003.

36. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2002-03	2003-04
General Fund	75,821,400	82,615,500

Included in the above General Fund appropriation is $76,853,100 in fiscal year 2002-2003 and $77,476,500 in fiscal year 2003-2004 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $2,092,500 in fiscal year 2003-2004 for first year debt service for bonds authorized by the 2000 Regular Session of the General Assembly.

Included in the above General Fund appropriation is $96,200 in fiscal year 2003-2004 for debt service for $4,600,000 in new bonding authority to be provided to public school district 165 in fiscal year 2002-2003.

Notwithstanding KRS 157.611 to 157.640, 157.650, 157.655, 157.660, or 157.665, the School Facilities Construction Commission is authorized to make an additional $100,000,000 in offers of assistance during the 2002-2004 biennium in anticipation of debt service availability during the 2004-2006 biennium. Included in the above General Fund appropriation is $2,700,000 in fiscal year 2003-2004 for debt service on $32,265,000 of these bonds. No additional bonded indebtedness based on the above amount is to be incurred during the 2002-2004 biennium.

37. DEAF AND HARD OF HEARING

	2002-03	2003-04
General Fund	885,500	885,500
Restricted Funds	281,500	260,000
TOTAL	1,167,000	1,145,500

38. KENTUCKY HERITAGE COUNCIL

	2002-03	2003-04
General Fund	921,100	921,100
Restricted Funds	785,700	227,500
Federal Funds	766,100	766,100
TOTAL	2,472,900	1,914,700

39. KENTUCKY EDUCATIONAL TELEVISION

	2002-03	2003-04
General Fund	14,548,100	14,548,100
Restricted Funds	1,106,400	1,075,700
Federal Funds	700,000	700,000
TOTAL	16,354,500	16,323,800

40. KENTUCKY HISTORICAL SOCIETY

	2002-03	2003-04
General Fund	5,985,200	5,985,200
Restricted Funds	627,200	571,400
Federal Funds	486,800	381,600
TOTAL	7,099,200	6,938,200

41. LIBRARIES AND ARCHIVES

a. General Operations

	2002-03	2003-04

General Fund	7,257,400	7,257,400
Restricted Funds	1,795,200	1,830,800
Federal Funds	1,807,600	1,836,800
TOTAL	10,860,200	10,925,000

b. Direct Local Aid

	2002-03	2003-04
General Fund	5,811,600	5,811,600
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
TOTAL	6,244,600	6,244,600

Notwithstanding KRS 171.201, included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of $0.73.

TOTAL - LIBRARIES AND ARCHIVES

	2002-03	2003-04
General Fund	13,069,000	13,069,000
Restricted Funds	1,804,200	1,839,800
Federal Funds	2,231,600	2,260,800
TOTAL	17,104,800	17,169,600

42. KENTUCKY CENTER FOR THE ARTS

	2002-03	2003-04
General Fund	603,700	603,700

43. ENVIRONMENTAL EDUCATION COUNCIL

	2002-03	2003-04
Restricted Funds	167,000	150,000

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	2002-03	2003-04
General Fund	209,822,300	223,992,200
Restricted Funds	13,333,800	12,545,500
Federal Funds	4,877,300	4,729,600
TOTAL	228,033,400	241,267,300

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

44. COMMUNITY BASED SERVICES

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	280,666,700	279,364,400
Restricted Funds	104,134,700	133,339,600
Federal Funds	489,678,800	476,832,800
TOTAL	881,743,000	893,118,100

The Department for Community Based Services shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

45. ADMINISTRATION SERVICES

	2002-03	2003-04
General Fund	27,660,400	29,162,700
Restricted Funds	4,390,100	4,501,800
Federal Funds	37,311,900	38,458,800
TOTAL	69,362,400	72,123,300

46. DISABILITY DETERMINATIONS

	2002-03	2003-04

Restricted Funds	62,700	65,800
Federal Funds	40,129,800	42,376,900
TOTAL	40,192,500	42,442,700

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	2002-03	2003-04
General Fund (Tobacco)	7,262,800	3,581,300
General Fund	308,327,100	308,527,100
Restricted Funds	108,587,500	137,907,200
Federal Funds	567,120,500	557,668,500
TOTAL	991,297,900	1,007,684,100

F. FINANCE AND ADMINISTRATION CABINET

47. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	2002-03	2003-04
General Fund	5,832,300	5,832,300
Restricted Funds	2,737,000	2,870,000
TOTAL	8,569,300	8,702,300

Included in the above General Fund appropriation is $200,000 in fiscal year 2002-2003 and $200,000 in fiscal year 2003-2004 for the Affordable Housing Trust Fund which shall be matched equally from the Kentucky Housing Corporation Housing Assistance Fund.

Included in the above General Fund appropriation is $220,000 in fiscal year 2003-2004 for Gubernatorial transition costs.

b. Office of the Controller

	2002-03	2003-04
General Fund	5,939,400	5,939,400
Restricted Funds	396,000	414,000
Federal Funds	4,000,000	4,000,000
TOTAL	10,335,400	10,353,400

c. Debt Service

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	245,498,000	248,752,000
Road Fund	3,668,000	3,664,000
TOTAL	255,278,000	258,532,000

Included in the above General Fund appropriation is $980,000 in fiscal year 2003-2004 for debt service for Coal Severance Tax Projects funded with Bond Funds.

d. Administration

	2002-03	2003-04
General Fund	3,542,400	3,513,000
Restricted Funds	9,180,800	9,567,000
Road Fund	283,000	283,000
TOTAL	13,006,200	13,363,000

e. Facilities Management

	2002-03	2003-04
General Fund	7,875,800	7,875,800
Restricted Funds	25,116,000	25,821,000
TOTAL	32,991,800	33,696,800

f. County Costs

	2002-03	2003-04

General Fund	22,631,000	19,211,100
Restricted Funds	1,425,000	1,425,000
TOTAL	24,056,000	20,636,100

Notwithstanding KRS 24A.190 to 24A.193, included in the above General Fund appropriation is $5,431,000 in fiscal year 2002-2003 and $0 in fiscal year 2003-2004 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	2002-03	2003-04
Restricted Funds	85,145,600	80,760,800

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	6,112,000	6,116,000
General Fund	291,318,900	291,123,600
Restricted Funds	124,000,400	120,857,800
Federal Funds	4,000,000	4,000,000
Road Fund	3,951,000	3,947,000
TOTAL	429,382,300	426,044,400

G. CABINET FOR HEALTH SERVICES

Budget Units

48. MEDICAID SERVICES

a. Administration

	2002-03	2003-04
General Fund	17,848,000	18,028,200
Restricted Funds	20,624,400	20,806,000
Federal Funds	44,009,800	44,741,900
TOTAL	82,482,200	83,576,100

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(1) Establish a new program;

(2) Expand the services of an existing program; or

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

b. Benefits

	2002-03	2003-04
General Fund	752,373,700	757,093,500
Restricted Funds	200,011,300	192,249,400
Federal Funds	2,245,464,700	2,237,396,900
TOTAL	3,197,849,700	3,186,739,800

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Included in the above appropriation is $1,200,000 in General Fund support and $4,800,000 Federal Funds in each fiscal year to support the Breast and Cervical Cancer Treatment Program.

Included in the above appropriation is $1,970,300 in General Fund support and $4,575,500 in Federal Funds in fiscal year 2002-2003 and $6,690,100 in General Fund support, $3,800,800 in Restricted Funds, and $24,351,100 in Federal Funds to support 250 additional slots in fiscal year 2002-2003 and 500 additional slots in fiscal year 2003-2004 for the Supports for Community Living Program.

Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal year 2002-2003 shall not lapse, but shall be carried forward into the next fiscal year.

49. PUBLIC HEALTH

	2002-03	2003-04
General Fund (Tobacco)	21,738,800	20,882,800
General Fund	55,693,300	56,343,700
Restricted Funds	65,849,000	65,914,100
Federal Funds	141,120,500	127,620,500
TOTAL	284,401,600	270,761,100

Included in the above appropriation is $50,000 in General Fund support in each fiscal year to support hospital-based hospice services in Louisville, Kentucky.

Included in the above fiscal year 2003-2004 General Fund appropriation is $262,000 in debt service for new bonds.

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

50. MENTAL HEALTH/MENTAL RETARDATION

	2002-03	2003-04
General Fund (Tobacco)	1,000,000	1,000,000
General Fund	168,530,000	172,409,900
Restricted Funds	190,820,600	206,415,200
Federal Funds	41,724,800	41,355,900
TOTAL	402,075,400	421,181,000

Included in the above General Fund appropriation is $275,000 in fiscal year 2002-2003 and $275,000 in fiscal year 2003-2004 to implement a training program relating to mental health consultation and education to jails, as identified in Part IX, Special Provisions, of this Act (Part IX, Special Provisions, 25. Department for Mental Health/Mental Retardation, e. Mental Health Consultation and Education to Jails). No funds shall be disbursed by the Cabinet for Health Services until all plans for training programs have been approved by the Kentucky Commission on Services and Supports to Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses.

Also included in the above General Fund appropriation is $523,000 in fiscal year 2003-2004 for debt service to support new bonds.

51. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2002-03	2003-04
General Fund (Tobacco)	1,600,000	1,600,000
General Fund	16,709,500	16,709,500
Restricted Funds	22,089,000	23,262,900
Federal Funds	10,053,700	9,822,800
TOTAL	50,452,200	51,395,200

52. CERTIFICATE OF NEED

	2002-03	2003-04
General Fund	131,500	134,100
Restricted Funds	234,200	251,100
TOTAL	365,700	385,200

The Secretary shall be authorized to promulgate such administrative regulations as may be required to prescribe user fee amounts which are reflected in the Restricted Funds appropriations above.

53. AGING SERVICES

	2002-03	2003-04
General Fund	26,421,800	26,821,800
Restricted Funds	760,400	761,600
Federal Funds	18,885,300	18,885,300
TOTAL	46,067,500	46,468,700

54. ADMINISTRATIVE SUPPORT

	2002-03	2003-04

General Fund	9,866,000	9,875,000
Restricted Funds	8,154,000	8,806,700
Federal Funds	12,729,200	13,254,500
TOTAL	30,749,200	31,936,200

Notwithstanding KRS 211.090 or 211.160, the Secretary shall promulgate such administrative regulations as may be required to prescribe such user fees as are necessary to support the Restricted Funds appropriations above.

TOTAL - CABINET FOR HEALTH SERVICES

	2002-03	2003-04
General Fund (Tobacco)	24,338,800	23,482,800
General Fund	1,047,573,800	1,057,415,700
Restricted Funds	508,542,900	518,467,000
Federal Funds	2,513,988,000	2,493,077,800
TOTAL	4,094,443,500	4,092,443,300

H. JUSTICE CABINET

55. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	2002-03	2003-04
General Fund	8,017,000	7,826,000
Restricted Funds	1,908,100	2,164,200
Federal Funds	13,433,500	13,384,700
TOTAL	23,358,600	23,374,900

Included in the above General Fund appropriation is $1,316,000 in fiscal year 2002-2003 and $1,350,000 in fiscal year 2003-2004 to provide free civil legal services for indigents.

Included in the above General Fund appropriation is $1,096,700 in fiscal year 2002-2003 and $1,152,200 in fiscal year 2003-2004 for the operation of the State Parole Board.

Included in the above General Fund appropriation is $70,000 in fiscal year 2002-2003 for a grant to continue the Urban League of Lexington-Fayette County Construction Training Program.

Included within the above Restricted Funds appropriation is $375,600 in fiscal year 2002-2003 and $363,700 in fiscal year 2003-2004 to support the Criminal Justice Council. Notwithstanding KRS 15.440, 15.460, and 15.470, these Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF).

b. State Police

	2002-03	2003-04
General Fund	78,074,900	80,574,900
Restricted Funds	7,870,800	7,621,200
Federal Funds	9,772,600	10,261,300
Road Fund	35,000,000	35,000,000
TOTAL	130,718,300	133,457,400

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	2002-03	2003-04
Restricted Funds	39,077,100	37,941,400
Federal Funds	2,700,000	2,700,000
TOTAL	41,777,100	40,641,400

Included in the above Restricted Funds appropriation is $22,167,300 in fiscal year 2002-2003 and $22,915,000 in fiscal year 2003-2004 for training incentive payments in accordance with KRS 15.430 and 15.440.

Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004 for training incentive payments for each participant.

d. Juvenile Justice

	2002-03	2003-04
General Fund	82,611,600	83,790,100
Restricted Funds	14,015,000	15,691,600
Federal Funds	17,300,000	17,250,000
TOTAL	113,926,600	116,731,700

Included in the above General Fund appropriation is $4,940,000 in fiscal year 2002-2003 and $4,394,700 in fiscal year 2003-2004 to support detention subsidies to counties of $94 per day per juvenile and to support the provisions included in Part IX, Special Provisions, Juvenile Justice.

Included in the above General Fund appropriation is $350,000 in fiscal year 2002-2003 and $350,000 in fiscal year 2003-2004 for the operation of the Gateway Juvenile Diversion Center.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 for the operation of the Mary Kendall Homes.

TOTAL - JUSTICE OPERATIONS

	2002-03	2003-04
General Fund	168,703,500	172,191,000
Restricted Funds	62,871,000	63,418,400
Road Fund	35,000,000	35,000,000
Federal Funds	43,206,100	43,596,000
TOTAL	309,780,600	314,205,400

56. CORRECTIONS

Budget Units

a. Corrections Management

	2002-03	2003-04
General Fund	15,222,900	16,331,800
Restricted Funds	15,799,700	15,583,900
Federal Funds	1,743,100	800,000
TOTAL	32,765,700	32,715,700

Included in the above General Fund appropriation is $508,000 in fiscal year 2003-2004 to provide for debt service payments to support new bonds.

b. Community Services and Local Facilities

	2002-03	2003-04
General Fund	64,874,000	82,600,400
Restricted Funds	15,623,400	629,900
Federal Funds	51,000	0
TOTAL	80,548,400	83,230,300

Notwithstanding KRS 441.605 to 441.695 for fiscal year 2002-2003, funds in the amount of $15,000,000 shall be expended from the Kentucky Local Correctional Facilities Construction Authority for local correctional facility and operational support consistent with contractual covenants in accordance with bond indentures of the Authority.

In accordance with KRS 196.076(1) to (8), funding is provided for the Probation and Parole Salary Improvement Program.

Included in the above General Fund appropriation is $44,012,900 in fiscal year 2002-2003 and $46,354,800 in fiscal year 2003-2004 to support payments to county jails for state inmates.

c. Adult Correctional Institutions

	2002-03	2003-04
General Fund	187,290,800	196,383,900
Restricted Funds	6,526,100	6,588,500
Federal Funds	328,700	215,200
TOTAL	194,145,600	203,187,600

d. Local Jail Support

	2002-03	2003-04

General Fund	15,276,100	15,276,100

Included in the General Fund appropriation is $931,100 in fiscal year 2002-2003 and $931,100 in fiscal year 2003-2004 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $400,000 in fiscal year 2002-2003 and $400,000 in fiscal year 2003-2004 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2002-03	2003-04
General Fund	282,663,800	310,592,200
Restricted Funds	37,949,200	22,802,300
Federal Funds	2,122,800	1,015,200
TOTAL	322,735,800	334,409,700

TOTAL - JUSTICE CABINET

	2002-03	2003-04
General Fund	451,367,300	482,783,200
Restricted Funds	100,820,200	86,220,700
Federal Funds	45,328,900	44,611,200
Road Fund	35,000,000	35,000,000
TOTAL	632,516,400	648,615,100

I. LABOR

LABOR CABINET

57. Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	349,900	367,700
Restricted Funds	5,652,600	5,897,300
TOTAL	6,002,500	6,265,000

Funds lapsed in Part V include no employer benefit premiums or liability payments and are Restricted Funds used for General Administration and Support operations.

b. Workplace Standards

	2002-03	2003-04
General Fund	2,085,400	2,067,600
Restricted Funds	124,275,500	124,691,000
Federal Funds	3,280,500	3,280,500
TOTAL	129,641,400	130,039,100

c. Workers' Claims

	2002-03	2003-04
Restricted Funds	16,397,700	17,093,300

d. Kentucky Occupational Safety and Health Review Commission

	2002-03	2003-04
Restricted Funds	476,800	479,300

TOTAL - LABOR CABINET

	2002-03	2003-04
General Fund	2,435,300	2,435,300
Restricted Funds	146,802,600	148,160,900
Federal Funds	3,280,500	3,280,500
TOTAL	152,518,400	153,876,700

Budget Unit

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	2002-03	2003-04
Restricted Funds	151,812,000	153,419,000

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to the Department of Mines and Minerals.

Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Workers' Compensation Funding Commission in fiscal year 2002-2003 and fiscal year 2003-2004.

Notwithstanding KRS 342.122(1)(b), the workers' compensation assessment rate shall remain at 11.5 percent for the biennium.

Funds lapsed in Part V include no employer benefit premiums or liability payments and are the recapture of fiscal year 2001-2002 General Fund transfers to the Benefit Reserve Fund.

TOTAL - LABOR

	2002-03	2003-04
General Fund	2,500,300	2,500,300
Restricted Funds	298,614,600	301,579,900
Federal Funds	3,280,500	3,280,500
TOTAL	304,395,400	307,360,700

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

59. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	2002-03	2003-04
General Fund	9,445,900	9,445,900
Restricted Funds	331,900	277,300
Federal Funds	1,585,200	1,596,300
TOTAL	11,363,000	11,319,500

b. Environmental Protection

	2002-03	2003-04
General Fund	22,886,100	22,790,100
Restricted Funds	27,442,300	34,481,700
Federal Funds	19,457,000	19,661,900
TOTAL	69,785,400	76,933,700

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above Restricted Funds appropriation is $7,400,000 in fiscal year 2002-2003 and $12,132,000 in fiscal year 2003-2004 for the Kentucky Pride Program.

c. Natural Resources

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	12,930,400	12,930,400
Restricted Funds	4,583,700	3,809,900
Federal Funds	6,283,300	4,914,700
TOTAL	32,797,400	30,655,000

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	2002-03	2003-04
General Fund	10,051,400	10,051,400
Restricted Funds	6,157,800	6,484,100
Federal Funds	17,243,300	17,390,000
TOTAL	33,452,500	33,925,500

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	2002-03	2003-04
Federal Funds	22,000,000	22,000,000

The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	55,313,800	55,217,800
Restricted Funds	38,515,700	45,053,000
Federal Funds	66,568,800	65,562,900
TOTAL	169,398,300	174,833,700

60. ENVIRONMENTAL QUALITY COMMISSION

	2002-03	2003-04
General Fund	253,700	253,700
Restricted Funds	2,000	0
TOTAL	255,700	253,700

61. KENTUCKY NATURE PRESERVES COMMISSION

	2002-03	2003-04
General Fund	980,900	1,053,100
Restricted Funds	314,700	298,700
Federal Funds	25,000	25,000
TOTAL	1,320,600	1,376,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	2002-03	2003-04
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	56,548,400	56,524,600
Restricted Funds	38,832,400	45,351,700
Federal Funds	66,593,800	65,587,900
TOTAL	170,974,600	176,464,200

K. PERSONNEL CABINET

62. PERSONNEL CABINET

Budget Units

a. General Operations

	2002-03	2003-04
General Fund	1,507,400	3,257,400
Restricted Funds	13,222,000	14,223,200
TOTAL	14,729,400	17,480,600

Notwithstanding KRS 18A.015(2), (3), and (4), the Personnel Cabinet shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

b. Public Employees Deferred Compensation Authority

	2002-03	2003-04
Restricted Funds	5,183,300	5,622,100

c. Workers' Compensation Benefits and Reserve

	2002-03	2003-04
Restricted Funds	17,269,200	18,138,200

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

d. State Salary Compensation Fund

	2002-03	2003-04
General Fund	0	11,490,000

The above General Fund appropriation in fiscal year 2003-2004 is provided to fund a cost-of-living adjustment for state employees as provided in Part IV of this Act.

TOTAL - PERSONNEL CABINET

	2002-03	2003-04
General Fund	1,507,400	14,747,400
Restricted Funds	35,674,500	37,983,500
TOTAL	37,181,900	52,730,900

L. POSTSECONDARY EDUCATION

Budget Units

63. COUNCIL ON POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,280,000	5,455,000
General Fund	101,327,400	135,959,400
Restricted Funds	14,536,800	4,707,700
Federal Funds	4,260,000	3,161,200
TOTAL	126,404,200	149,283,300

Included in the above General Fund appropriation is $82,270,900 in fiscal year 2002-2003 and $112,915,700 in fiscal year 2003-2004 for the Strategic Investment and Incentive Funding Program. The following trust funds and funding programs make up the Strategic Investment and Incentive Funding Program for fiscal year 2002-2003 and for fiscal year 2003-2004. Included in the above General Fund appropriation is $9,871,000 in fiscal year 2003-2004 for the Research Challenge Trust Fund. Included in the above General Fund appropriation is $1,975,000 in fiscal year 2003-2004 for the Regional University Excellence Trust Fund. Included in the above General Fund appropriation is $1,300,000 in fiscal year 2002-2003 and $1,300,000 in fiscal year 2003-2004 for the Technology Initiative Trust Fund. Included in the above General Fund appropriation is $62,431,300 in fiscal year 2002-2003 and $79,230,100 in fiscal year 2003-2004 for the Student Financial Aid and Advancement Trust Fund. Included in the above Restricted Funds appropriation is $750,000 in fiscal year 2002-2003 for the Student Financial Aid and Advancement Trust Fund. Included in the above General Fund appropriation is $11,768,000 in fiscal year 2002-2003 and $11,768,000 in fiscal year 2003-2004 for the Adult Education and Literacy Funding Program. Included in the above General Fund appropriation is $6,771,600 in fiscal year 2002-2003 and $8,771,600 in fiscal year 2003-2004 for the Science and Technology Funding Program. Included in the above Restricted Funds appropriation is $4,000,000 in fiscal year 2002-2003 and $2,000,000 in fiscal year 2003-2004 for the Science and Technology Funding Program.

Included in the above General Fund appropriation for the Research Challenge Trust Fund is $9,871,000 in fiscal year 2003-2004 for debt service to support the Research Challenge Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Included in the above General Fund appropriation for the Regional University Excellence Trust Fund is $1,975,000 in fiscal year 2003-2004 for debt service to support the Regional University Excellence Trust Fund-Endowment Match capital project appropriation authorized in Part II, Capital Projects Budget, in this Act.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2002-2003 to the Science and Technology Funding Program shall not lapse.

64. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2002-03	2003-04
General Fund (Tobacco)	557,000	750,000
General Fund	45,860,000	66,828,300
Restricted Funds	86,802,500	97,352,600
Federal Funds	868,700	890,000
TOTAL	134,088,200	165,820,900

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $28,885,800 for the College Access Program in fiscal year 2002-2003 and $42,504,400 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $12,288,400 for the Kentucky Tuition Grant Program in fiscal year 2002-2003 and $18,216,200 in fiscal year 2003-2004.

Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation for the Teacher Scholarship Program is $976,600 in fiscal year 2002-2003 and $2,279,400 in fiscal year 2003-2004.

Included in the above Restricted Funds appropriation is $742,800 in fiscal year 2002-2003 and $765,100 in fiscal year 2003-2004 for the administration of the Kentucky Educational Excellence Scholarship Program.

65. EASTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	71,668,300	71,668,300
Restricted Funds	83,158,600	87,603,100
Federal Funds	44,454,400	46,665,700
TOTAL	199,281,300	205,937,100

Included in the above General Fund appropriation is $3,700,400 in fiscal year 2002-2003 and $3,712,100 in fiscal year 2003-2004 for debt service for previously issued bonds.

66. KENTUCKY STATE UNIVERSITY

	2002-03	2003-04
General Fund	22,412,400	22,412,400
Restricted Funds	16,446,900	17,699,000
Federal Funds	11,500,400	11,730,400
TOTAL	50,359,700	51,841,800

Included in the above General Fund appropriation is $2,247,600 in fiscal year 2002-2003 and $2,252,000 in fiscal year 2003-2004 for debt service for previously issued bonds.

67. MOREHEAD STATE UNIVERSITY

	2002-03	2003-04
General Fund	41,729,800	41,729,800
Restricted Funds	46,293,500	47,104,600
Federal Funds	46,570,500	51,207,100
TOTAL	134,593,800	140,041,500

Included in the above General Fund appropriation is $1,543,700 in fiscal year 2002-2003 and $1,452,600 in fiscal year 2003-2004 for debt service for previously issued bonds.

68. MURRAY STATE UNIVERSITY

	2002-03	2003-04
General Fund	50,388,100	50,388,100
Restricted Funds	68,752,700	72,256,200
Federal Funds	10,646,700	10,906,800
TOTAL	129,787,500	133,551,100

Included in the above General Fund appropriation is $1,880,700 in fiscal year 2002-2003 and $1,884,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

69. NORTHERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	45,257,600	45,257,600

Restricted Funds	66,180,400	69,535,800
Federal Funds	7,422,000	7,669,100
TOTAL	118,860,000	122,462,500

Included in the above General Fund appropriation is $5,019,600 in fiscal year 2002-2003 and $5,033,300 in fiscal year 2003-2004 for debt service for previously issued bonds.

70. UNIVERSITY OF KENTUCKY

	2002-03	2003-04
General Fund	304,755,700	305,031,200
Restricted Funds	858,999,900	873,254,500
Federal Funds	126,193,600	128,053,100
TOTAL	1,289,949,200	1,306,338,800

Included in the above General Fund appropriation is $6,461,300 in fiscal year 2002-2003 and $5,848,900 in fiscal year 2003-2004 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $9,081,500 in fiscal year 2002-2003 and $9,081,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College, of which $988,100 in fiscal year 2002-2003 and $732,700 in fiscal year 2003-2004 is for debt service for previously issued bonds.

Included in the above General Fund appropriation is $300,000 in fiscal year 2002-2003 and $300,000 in fiscal year 2003-2004 to support medical residency positions at Morehead and Corbin.

Included in the above General Fund appropriation is $275,500 in fiscal year 2003-2004 to support a domestic violence program.

Included in the above Restricted Funds appropriation is $14,424,900 in fiscal year 2002-2003 and $15,388,100 in fiscal year 2003-2004 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $5,923,500 in fiscal year 2002-2003 and $5,923,500 in fiscal year 2003-2004 to support the operations of the Lexington Community College. Included in the above General Fund appropriation is $103,000 in fiscal year 2002-2003 and $103,000 in fiscal year 2003-2004 for the Ovarian Cancer Screening Program. Also, notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) moneys in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky as specified in Part IX, Special Provisions, of this Act.

71. UNIVERSITY OF LOUISVILLE

	2002-03	2003-04
General Fund	172,352,500	172,352,500
Restricted Funds	293,702,300	302,317,400
Federal Funds	49,334,100	50,789,900
TOTAL	515,388,900	525,459,800

Included in the above General Fund appropriation is $11,330,000 in fiscal year 2002-2003 and $9,504,900 in fiscal year 2003-2004 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $17,052,900 in fiscal year 2002-2003 and $17,500,300 in fiscal year 2003-2004 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Included in the above Restricted Funds appropriation is $50,000 in fiscal year 2002-2003 for the Quality and Charity Trust Agreement.

Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2001-2002 shall not lapse. Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Care Trust Agreement in fiscal year 2002-2003 shall continue into fiscal year 2003-2004 for this purpose. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 2003-2004.

72. WESTERN KENTUCKY UNIVERSITY

	2002-03	2003-04
General Fund	69,025,000	69,025,000
Restricted Funds	81,837,400	85,598,400
Federal Funds	30,444,000	32,444,000
TOTAL	181,306,400	187,067,400

Included in the above General Fund appropriation is $3,295,900 in fiscal year 2002-2003 and $3,114,500 in fiscal year 2003-2004 for debt service for previously issued bonds.

73. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	2002-03	2003-04
General Fund	185,313,100	185,313,100
Restricted Funds	177,568,900	185,450,000
Federal Funds	68,053,500	71,735,500
TOTAL	430,935,500	442,498,600

Included in the above General Fund appropriation is $10,726,000 in fiscal year 2002-2003 and $10,765,800 in fiscal year 2003-2004 for debt service for previously issued bonds.

Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Fund shall be $3,100 in fiscal year 2002-2003 and $3,100 in fiscal year 2003-2004.

Notwithstanding KRS 95A.262(3), $500,000 is provided each fiscal year of the 2002-2004 biennium for the firefighters training center fund.

TOTAL - POSTSECONDARY EDUCATION

	2002-03	2003-04
General Fund (Tobacco)	6,837,000	6,205,000
General Fund	1,110,089,900	1,165,965,700
Restricted Funds	1,794,279,900	1,842,879,300
Federal Funds	399,747,900	415,252,800
TOTAL	3,310,954,700	3,430,302,800

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

74. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	2002-03	2003-04
General Fund	635,000	857,300
Restricted Funds	2,539,000	2,936,900
Federal Funds	546,900	557,800
TOTAL	3,720,900	4,352,000

75. ALCOHOLIC BEVERAGE CONTROL

	2002-03	2003-04
General Fund	250,000	1,663,000
Restricted Funds	5,887,600	4,545,200
TOTAL	6,137,600	6,208,200

Included in the above General Fund appropriation is $250,000 in fiscal year 2002-2003 and $250,000 in fiscal year 2003-2004 to carry out the provisions of KRS 438.337.

76. FINANCIAL INSTITUTIONS

	2002-03	2003-04
Restricted Funds	8,993,100	9,329,700

77. KENTUCKY RACING COMMISSION

	2002-03	2003-04
General Fund	509,200	0
Restricted Funds	15,002,600	14,187,300
TOTAL	15,511,800	14,187,300

78. HOUSING, BUILDINGS AND CONSTRUCTION

	2002-03	2003-04
General Fund	1,718,300	2,318,300
Restricted Funds	12,826,500	12,287,600
TOTAL	14,544,800	14,605,900

79. INSURANCE

General Operations

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
Restricted Funds	22,851,900	24,162,100
TOTAL	42,257,100	41,018,000

80. MINES AND MINERALS

	2002-03	2003-04
General Fund	9,365,000	9,365,000
Restricted Funds	2,261,100	2,043,200
Federal Funds	599,300	598,500
TOTAL	12,225,400	12,006,700

Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2002-2003 and $850,000 in fiscal year 2003-2004 shall be transferred to Mines and Minerals.

81. PUBLIC ADVOCACY

	2002-03	2003-04
General Fund	23,925,300	25,389,800
Restricted Funds	3,025,900	3,077,900
Federal Funds	1,569,300	1,384,500
TOTAL	28,520,500	29,852,200

82. PUBLIC SERVICE COMMISSION

	2002-03	2003-04
General Fund	11,243,500	11,243,500
Restricted Funds	2,524,000	24,000
Federal Funds	259,800	272,200
TOTAL	14,027,300	11,539,700

Included in the above General Fund appropriation is $589,000 in fiscal year 2002-2003 and $589,000 in fiscal year 2003-2004 for debt service on bonds for the new office building authorized by the 1996 General Assembly.

83. SECRETARY

a. General Operations

	2002-03	2003-04
General Fund	261,200	261,200
Restricted Funds	2,036,900	2,095,700
TOTAL	2,298,100	2,356,900

b. Petroleum Storage Tank Environmental Assurance Fund

	2002-03	2003-04
Restricted Funds	32,103,700	29,660,600

TOTAL - SECRETARY

	2002-03	2003-04
General Fund	261,200	261,200
Restricted Funds	34,140,600	31,756,300
TOTAL	34,401,800	32,017,500

84. BOARD OF TAX APPEALS

	2002-03	2003-04
General Fund	478,100	498,600

85. CHARITABLE GAMING

	2002-03	2003-04
Restricted Funds	3,460,800	3,603,800

Notwithstanding KRS 238.570, the gross receipts fee for fiscal year 2002-2003 and fiscal year 2003-2004 shall be fifty-three one-hundredths of one percent.

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	2002-03	2003-04
General Fund (Tobacco)	19,405,200	16,855,900
General Fund	48,385,600	51,596,700
Restricted Funds	113,513,100	107,954,000
Federal Funds	2,975,300	2,813,000
TOTAL	184,279,200	179,219,600

N. REVENUE

Budget Units

86. REVENUE CABINET

	2002-03	2003-04
General Fund	66,087,800	65,032,000
Restricted Funds	4,519,000	4,149,200
Road Fund	1,418,000	1,418,000
TOTAL	72,024,800	70,599,200

Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2002-2004 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, 42.190, 95A.220, and 95A.262 in fiscal year 2002-2003 and fiscal year 2003-2004. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2002-2003 and 2003-2004 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Revenue Cabinet and is to be used exclusively for that purpose.

Notwithstanding KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account, except that the first $100,000 shall be deposited exclusively to the General Fund. The Revenue Cabinet may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Revenue Cabinet.

87. PROPERTY VALUATION ADMINISTRATORS

	2002-03	2003-04
General Fund	27,431,800	28,222,300
Restricted Funds	3,894,100	4,464,100
TOTAL	31,325,900	32,686,400

Notwithstanding KRS 132.590(3)(c) and (4) and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - REVENUE CABINET

	2002-03	2003-04
General Fund	93,519,600	93,254,300
Restricted Funds	8,413,100	8,613,300
Road Fund	1,418,000	1,418,000
TOTAL	103,350,700	103,285,600

O. TOURISM DEVELOPMENT CABINET

Budget Units

88. OFFICE OF THE SECRETARY

	2002-03	2003-04
General Fund	4,173,800	4,173,800
Restricted Funds	119,000	1,200,000
TOTAL	4,292,800	5,373,800

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for the purpose of supporting expenditures relating to agencies and programs within the Tourism Development Cabinet. The Secretary of the Tourism Development Cabinet shall have the ability to transfer these funds to other programs and budget units within the Executive Branch. Any funds transferred to other agencies within the Tourism Development Cabinet shall be designated as Restricted Funds and may be used to support the activities, programs, and operations of the agency receiving the respective funds.

The Tourism Development Cabinet, in conjunction with the Department of Agriculture, shall submit an application with the Governor's Office of Agricultural Policy for funds to support the activities and operations of the Office of Agritourism and the Agritourism Advisory Council.

89. BREAKS INTERSTATE PARK

	2002-03	2003-04
General Fund	196,000	196,000

90. TRAVEL DEVELOPMENT

	2002-03	2003-04
General Fund	6,900,200	6,900,200
Restricted Funds	2,000,000	0
TOTAL	8,900,200	6,900,200

Included in the above Restricted Fund appropriation is $2,000,000 in fiscal year 2002-2003 for the Appalachia Bus Program from the Local Government Economic Development Fund Multi-County Fund.

91. PARKS

	2002-03	2003-04
General Fund	28,857,100	28,857,100
Restricted Funds	50,998,000	52,400,000
Federal Funds	14,000	0
TOTAL	79,869,100	81,257,100

Notwithstanding KRS 148.800, 148.805, and 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

92. KENTUCKY HORSE PARK

	2002-03	2003-04
General Fund	1,750,000	1,650,000
Restricted Funds	5,942,000	5,632,000
TOTAL	7,692,000	7,282,000

93. KENTUCKY STATE FAIR BOARD

	2002-03	2003-04
General Fund	407,000	712,000
Restricted Funds	30,163,000	30,059,500
TOTAL	30,570,000	30,771,500

Included in the Restricted Funds appropriation is $371,000 in fiscal year 2002-2003 and $371,000 in fiscal year 2003-2004 for debt service for Project 55.

Any available Restricted Funds included in the State Fair Board's Capital Budget Account may be transferred to the operating budget to support personnel and operating expenses of the State Fair Board.

Included in the above General Fund appropriation in fiscal year 2003-2004 is $305,000 for debt service to support Bond Funds totaling $3,300,000 for the purchase of a Department of Transportation Building adjacent to the property owned by the State Fair Board and to replace roofs.

94. FISH AND WILDLIFE RESOURCES

	2002-03	2003-04
Restricted Funds	27,381,000	28,658,000
Federal Funds	7,850,000	7,650,000
TOTAL	35,231,000	36,308,000

TOTAL-TOURISM DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	42,284,100	42,489,100
Restricted Funds	116,603,000	117,949,500
Federal Funds	7,864,000	7,650,000

TOTAL	166,751,100	168,088,600

P. TRANSPORTATION CABINET

95. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	2002-03	2003-04
Restricted Funds	4,817,200	4,817,900
Federal Funds	13,800	9,400
TOTAL	4,831,000	4,827,300

Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

b. Revenue Sharing

	2002-03	2003-04
Road Fund	220,520,900	224,762,500

1. Included in the above Road Fund appropriation is $83,411,500 in fiscal year 2002-2003 and $85,021,900 in fiscal year 2003-2004 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2002-2003 and $38,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $101,187,800 in fiscal year 2002-2003 and $103,141,400 in fiscal year 2003-2004 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2002-2003 and $46,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $35,096,600 in fiscal year 2002-2003 and $35,744,200 in fiscal year 2003-2004 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2002-2003 and $16,000 in fiscal year 2003-2004 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $825,000 in fiscal year 2002-2003 and $825,000 in fiscal year 2003-2004 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

c. Public Transportation

	2002-03	2003-04
General Fund	5,520,300	4,875,300
Restricted Funds	2,506,100	874,100
Federal Funds	28,864,900	27,517,000
TOTAL	36,891,300	33,266,400

Included in the above General Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 for nonpublic school transportation.

Included in the above General Fund appropriation is $645,000 in fiscal year 2002-2003 to match federal grants for the TARC Transportation Tomorrow Rapid Transit Study.

d. Highways

	2002-03	2003-04
Restricted Funds	61,627,300	61,633,800
Federal Funds	495,939,000	496,114,400
Road Fund	586,293,600	598,113,200
TOTAL	1,143,859,900	1,155,861,400

1. Included in the above Road Fund appropriation is $225,082,700 in fiscal year 2002-2003 and $219,103,800 in fiscal year 2003-2004 for the State Funded Construction Program.

Included in the State Funded Construction Program is $66,000,000 in fiscal year 2002-2003 and $67,320,000 in fiscal year 2003-2004 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $500,000 in fiscal year 2002-2003 and $500,000 in fiscal year 2003-2004 from the Road Fund for the Specialized Contracts Account.

Included in the State Funded Construction Program is $121,582,700 in fiscal year 2002-2003 and $113,543,800 in fiscal year 2003-2004 from the Road Fund for state construction projects in the 2002-2004 Biennial Highway Construction Program. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

Included in the State Funded Construction Program is $37,000,000 in fiscal year 2002-2003 and $37,740,000 in fiscal year 2003-2004 for the Highway Construction Contingency Account. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2002-2003 and $2,500,000 in fiscal year 2003-2004 to support the Kentucky Pride Fund created in KRS 224.43-505.

2. Projects in the enacted 2000-2002 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2002-2004 biennium.

3. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2002-2003 and $290,000 in fiscal year 2003-2004 for the Kentucky Transportation Center.

4. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 from the sale of surplus equipment to purchase new highway equipment.

e. Vehicle Regulation

	2002-03	2003-04
Restricted Funds	7,001,700	6,699,300
Federal Funds	2,786,600	2,826,200
Road Fund	30,031,700	31,333,800
TOTAL	39,820,000	40,859,300

f. Debt Service

	2002-03	2003-04
Road Fund	167,660,900	161,312,100

1. Included in the above Road Fund appropriation is $620,600 in fiscal year 2002-2003 and $620,600 in fiscal year 2003-2004 for toll road lease-rental payments.

2. Included in the above Road Fund appropriation is $26,334,900 in fiscal year 2002-2003 and $38,889,500 in fiscal year 2003-2004 for Resource Recovery Road lease- rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $140,705,400 in fiscal year 2002-2003 and $121,802,000 in fiscal year 2003-2004 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

5. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2002-2004 biennium.

g. General Administration and Support

	2002-03	2003-04
Restricted Funds	29,050,000	29,050,000
Road Fund	70,288,300	75,914,900
TOTAL	99,338,300	104,964,900

Included in the above Road Fund appropriation is $7,165,600 in fiscal year 2002-2003 and $7,335,500 in fiscal year 2003-2004 for debt service for previously authorized bonds to construct a new Transportation Cabinet Office Building and parking structure.

h. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 2002, and June 30, 2003, shall not lapse and shall carry forward to the next fiscal year.

TOTAL - TRANSPORTATION CABINET

	2002-03	2003-04

General Fund	5,520,300	4,875,300
Restricted Funds	105,002,300	103,075,100
Federal Funds	527,604,300	526,467,000
Road Fund	1,074,795,400	1,091,436,500
TOTAL	1,712,922,300	1,725,853,900

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

96. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2002-03	2003-04
General Fund	1,116,100	1,116,100
Restricted Funds	6,661,200	6,696,400
Federal Funds	190,300	175,400
TOTAL	7,967,600	7,987,900

97. TECHNICAL EDUCATION

	2002-03	2003-04
General Fund	23,150,300	23,150,300
Restricted Funds	20,637,400	19,672,600
Federal Funds	13,037,200	13,037,200
TOTAL	56,824,900	55,860,100

Included in the above General Fund appropriation is $1,600,000 in fiscal year 2002-2003 and $521,000 in fiscal year 2003-2004 to provide for start-up costs for the Lincoln County and Jackson County vocational technical schools. In addition, the above General Fund appropriation includes $644,800 in fiscal year 2002-2003 and $344,600 in fiscal year 2003-2004 to support the ongoing operational costs of the Lincoln County and Jackson County vocational technical schools. Notwithstanding KRS 45.229, funds allocated for the ongoing operational costs remaining at the end of fiscal year 2002-2003 shall not lapse but shall be carried forward to fiscal year 2003-2004.

Notwithstanding KRS 341.835, up to $550,000 from the Unemployment Insurance Penalty and Interest Account in the Department for Employment Services shall be transferred in fiscal year 2002-2003 to the Department for Technical Education to operate training programs.

98. ADULT EDUCATION AND LITERACY

	2002-03	2003-04
General Fund	10,807,600	10,807,600
Restricted Funds	11,104,300	11,104,300
Federal Funds	12,624,500	15,149,400
TOTAL	34,536,400	37,061,300

99. VOCATIONAL REHABILITATION

	2002-03	2003-04
General Fund	11,045,200	11,236,400
Restricted Funds	2,911,100	2,955,100
Federal Funds	43,328,800	44,193,800
TOTAL	57,285,100	58,385,300

100. DEPARTMENT FOR THE BLIND

	2002-03	2003-04
General Fund	1,282,800	1,492,600
Restricted Funds	1,948,800	1,979,000
Federal Funds	7,484,600	7,636,700
TOTAL	10,716,200	11,108,300

101. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	2002-03	2003-04
General Fund	4,627,700	4,743,400

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

102. TRAINING AND REEMPLOYMENT

	2002-03	2003-04
Federal Funds	48,530,400	49,350,300

103. EMPLOYMENT SERVICES

	2002-03	2003-04
General Fund	69,000	69,000
Restricted Funds	6,051,700	7,443,500
Federal Funds	617,825,500	509,917,900
TOTAL	623,946,200	517,430,400

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs and up to $550,000 in fiscal year 2002-2003 shall be transferred to the Department for Technical Education to operate training programs.

In addition to supplementing the Unemployment Insurance Trust Fund, Federal Funds available to Kentucky as a result of the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the administration of the unemployment compensation law and the public employment offices for costs allowable under the Unemployment Insurance and Wagner-Peyser Programs, subject to the provisions of KRS 48.630.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	2002-03	2003-04
General Fund	52,098,700	52,615,400
Restricted Funds	49,314,500	49,850,900
Federal Funds	743,021,300	639,460,700
TOTAL	844,434,500	741,927,000

R. BUDGET RESERVE TRUST FUND

	2002-03	2003-04
General Fund	5,087,400	10,000,000
TOTAL	5,087,400	10,000,000

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2002-2004 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04

1. Governor's Office for Technology

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

	2002-03	2003-04
a. Statewide Microwave Network Maintenance		
Investment Income	1,500,000	
b. Unified Criminal Justice Information System		
Reauthorization		
Capital Construction Surplus - Additional 1,000,000		
Restricted Funds	805,000	
TOTAL	1,805,000	
c. KY Information Highway Upgrade Expansion - Additional		
Restricted Funds	1,750,000	1,750,000
d. Enterprise Server Complex Upgrade - Additional		
Restricted Funds	2,370,000	2,370,000

	e.	Disk Storage Upgrade - Additional		
		Restricted Funds	887,000	887,000
	f.	Tape Storage Upgrade - Additional		
		Restricted Funds	645,000	645,000
	g.	Enterprise Messaging		
		Restricted Funds	660,000	
	h.	Franklin County - Lease		
2.		Department of Veterans' Affairs		
	a.	New State Veterans' Cemetery-Northern KY		
		General Fund	50,000	
		Federal Funds	9,500,000	
		TOTAL	9,550,000	
	b.	New State Veterans' Cemetery-Central KY		
		General Fund	50,000	
		Federal Funds	8,900,000	
		TOTAL	8,950,000	
3.		Kentucky Infrastructure Authority		
	a.	KIA Fund A - Federally Assisted Wastewater Program		
		Bond Funds	6,200,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants Program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

	b.	KIA Fund F - Drinking Water Revolving Loan Program		
		Bond Funds	5,000,000	

The Bond Funds appropriated above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the operating budget to comply with the Federal Cash Management Act.

	c.	Kentucky Pride Fund Projects		
		Bond Funds	25,000,000	
4.		Treasury Department		
	a.	Checksealer Equipment - Lease - Additional		
		Capital Construction Surplus	63,000	63,000
	b.	Laser Check Printers - Lease - Additional		
		Capital Construction Surplus	257,000	256,000
5.		Attorney General		
	a.	Franklin County - Lease		
6.		Unified Prosecutorial System - Commonwealth's Attorneys		
	a.	Jefferson County - Lease		
7.		Department of Agriculture		
	a.	Large Scale Tractor		
		Restricted Funds	175,000	
	b.	Purchase of Agriculture Conservation Easements		
		Federal Funds	460,000	
	c.	Livestock Scale Testing Unit		
		Restricted Funds	100,000	
	d.	Franklin County - Lease		

	e.	Animal Shelters		
		Bond Funds	1,600,000	
8.		Department of Military Affairs		
	a.	Construct Maintenance Shop- London		
		Federal Funds	3,640,000	
	b.	Construct Combined Support Maintenance Shop		
		Federal Funds	10,465,000	
	c.	Construct Army Aviation Support Facility		
		Federal Funds	17,500,000	
	d.	Construct Fixed Wing Aviation Facility		
		Federal Funds	4,000,000	
	e.	Upgrade HVAC Ashland Armory (Guaranteed Energy Performance Contract)		
	f.	Upgrade HVAC Owensboro Armory (Guaranteed Energy Performance Contract)		
	g.	Construct Addition to Facilities Building		
		Federal Funds	911,000	
	h.	Maintenance Pool		
		Investment Income	743,400	742,900
	i.	Maintenance Pool - Air Transportation		
		Investment Income	371,700	371,400
	j.	Maintenance Pool - Bluegrass Station		
		Restricted Funds	500,000	500,000
	k.	Franklin County - Lease		
9.		Department for Local Government		
	a.	Flood Control Matching Fund		
		Bond Funds	3,000,000	
		Capital Construction and Equipment Purchase Contingency Fund	300,000	
		TOTAL	3,300,000	
	b.	Renaissance Kentucky		
		Bond Funds	6,000,000	

10. Morgan County - Park Development - Caney Creek

Reauthorization and Reallocation ($30,709 - Bond Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Morgan County Bridge Project appropriated by the 2000 General Assembly in the amount $200,000 in Bond Funds (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, item number 556, Morgan County Bridge Project). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., Governor's Office for Technology, of this Act, this project is reauthorized and reallocated to provide for development of a park at the mouth of Caney Creek.

11. Breathitt County - Breathitt County High School Fieldhouse

Reauthorization and Reallocation ($250,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Breathitt County - Breathitt County High School Fieldhouse project appropriated by the 2000 General Assembly in the amount of $250,000 in Restricted Funds (2000 Ky. Acts ch. 549, Part II, S. Coal Severance Tax Projects, (1) Government Operations, item number 14, Breathitt County - Breathitt County High School Fieldhouse). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., Governor's Office for Technology, of this Act, this project is reauthorized and $250,000 is reallocated to Breathitt County Schools and retitled as "Breathitt County-Recreational Playing Areas."

12. Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham

Reauthorization and Reallocation ($200,000 - Restricted Funds)

The project cited immediately above is authorized from a reallocation of the available balance of the Muhlenberg County -

Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham Project appropriated by the 2000 General Assembly in the amount of $500,000 in Restricted Funds (2000 Ky. Acts ch. 549, Part II, S. Coal Severance Tax Projects, (1) Government Operations, item number 175, Muhlenberg County - Construction of Interstate Ramp at Highway 175 and Western Parkway at Graham). In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and $200,000 is reallocated to the City of Greenville to provide for a mini-park/green space between the existing court house and the new Judicial Center and for new sidewalks and curbing around the judicial center being constructed in Muhlenberg County, Greenville, Kentucky.

13. Fleming County Fiscal Court - Fire Departments

Reauthorization and Reallocation ($100,000 - General Fund)

The project cited immediately above is authorized from a reallocation of the available balance of the Fleming County Fiscal Court - Environmental Program project appropriated by the 2000 General Assembly in the amount of $100,000 from the General Fund (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects 1. Finance and Administration Cabinet, General Administration, item number 188, Fleming County Fiscal Court - Environmental Program.) In accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 1., of this Act, this project is reauthorized and $100,000 is reallocated to Fleming County Fiscal Court and entitled Fleming County Fiscal Court - Volunteer Fire Departments to be distributed equally among the five Fleming County Volunteer Fire Departments.

14. Kentucky Retirement Systems		
a. Franklin County - Lease		
b. Franklin County - Lease		
15. Board of Nursing		
a. Jefferson County – Lease		
16. Kentucky River Authority		
a. Kentucky River Storage Enhancements		
Restricted Funds	30,000	2,500,000

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	2002-03	2003-04
1. Economic Development Projects		
a. Kentucky Economic Development Finance Authority Bond Pool		
Bond Funds	15,000,000	
b. Economic Development Bond Pool		
Bond Funds	5,000,000	

C. EDUCATION

Budget Unit	2002-03	2003-04
1. Department of Education		
a. Security, Fire Alarm, & Energy Systems - Kentucky School for the Blind		
Bond Funds	450,000	
b. Replace Kerr Hall HVAC - Kentucky School for the Deaf		
Bond Funds	1,067,000	
c. Maintenance Pool		
Investment Income	557,600	557,100
d. Roof Repair - Kentucky School for the Deaf		
Capital Construction Surplus	520,000	

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	2002-03	2003-04
1. School Facilities Construction Commission		
Reauthorization ($28,000,000 Bond Funds)		
Bond Funds - Additional	136,865,000	
2. Kentucky Educational Television		
a. Camera Replacement		
Restricted Funds	445,000	

3. Kentucky Center for the Arts		
a. Maintenance Pool		
Investment Income	139,400	139,400
b. Chiller Replacement		
Investment Income	250,000	
c. Water Leak and Window Repair		
Deferred Maintenance	957,000	

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2002-03	2003-04
1. Administration Services		
a. Lease - Disability Determinations Franklin County		
b. Lease - Fayette County		
c. Lease - Warren County		
d. Lease - Kenton County		
e. Lease including expansion - Jefferson County		
f. Lease - Hardin County		
g. Lease - Kenton County		
h. Lease - Campbell County		
i. Lease - Child Support Franklin County		
j. Lease including expansion - Letcher County		
k. Lease - OTS Franklin County		
l. Lease including expansion - Harlan County		
m. Lease including expansion - Henderson County		
n. Lease including expansion - Perry County		
o. Lease - Shelby County		
p. Lease including expansion - Fayette County		
q. Lease - Johnson County		
r. Lease including expansion - Boyd County		
s. Lease including expansion - Boone County		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
1. Office of the Secretary		
a. Hardin County - Elizabethtown - Children's Science and Learning Center		
Reauthorization and Reallocation ($367,057.67 - General Fund)		

The project cited immediately above is authorized from a reallocation of available balance of the Hardin County - Elizabethtown - Children's Science and Learning Center project appropriated by the 1998 General Assembly from the General Fund in the amount of $500,000 (1998 Ky. Acts ch. 615, Part II, Capital Projects Budget, F. Finance and Administration Cabinet, 4. Office of the Secretary Community Infrastructure Projects, item k. Elizabethtown - Children's Science and Learning Center). This project is reauthorized and $100,000 is reallocated for the Community Health Clinic of Hardin and Larue Counties, $50,000 is reallocated for the Spring Haven, Inc. Domestic Violence Center in Elizabethtown, $50,000 is reallocated to the Advocacy and Support Center for Sexual Assault and Abuse in Elizabethtown, and $167,057.67 is reallocated for the renovation of the Historic State Theatre Project. The Secretary of the Finance and Administration Cabinet may reassign projects to another appropriate state agency by Administrative Order after notification has been made to the Interim Joint Committee on Appropriations and Revenue and to the Capital Projects and Bond Oversight Committee.

2. Department for Administration
    a. Franklin County - Lease
3. Department for Facilities Management
    a. Capitol Historic Restoration/Asbestos Removal/Repair - State Office Building
        Reauthorization/Reallocation
        (6,000,000 - Bond Funds)

b. Energy Efficiency in State Government Buildings		
Restricted Funds	1,075,000	
c. Replace Roof - Civic Center		
Investment Income	1,200,000	
d. Maintenance Pool		
Investment Income	3,386,400	3,250,000
Restricted Funds	240,000	100,000
TOTAL	3,626,400	3,350,000
e. Modernize Elevators/Escalators - Various Buildings		
Investment Income	1,300,000	
f. Install Building Security Systems - Various Buildings		
Restricted Funds	750,000	
g. Capital Construction and Equipment Purchase Contingency Fund		
Restricted Funds	3,350,000	
h. Emergency Repair, Maintenance and Replacement Fund		
Restricted Funds	4,195,000	
4. Lottery Corporation		
a. Network Storage and Associated Infrastructure		
Other Funds	930,000	
b. Contingency on Property Adjacent to New Headquarters		
Other Funds	3,500,000	
c. Data Processing, Telecommunication, and Related Equipment		
Other Funds	3,500,000	
d. Potential Buyout of On-Line Gaming System		
Other Funds	18,450,000	
e. Instant Ticket Vending Machine		
Other Funds	900,000	900,000
f. Pull Tab Ticket Vending Machines		
Other Funds	1,500,000	1,500,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $2,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
1. Public Health		
a. Kentucky All Schedule Prescription Electronic Reporting		
Bond Funds	1,474,000	
2. Department for Mental Health/Mental Retardation Services		
a. Miscellaneous Roof Replacement/Repair Pool		
Bond Funds	700,000	
b. Statewide Chiller Replacement Pool		
Bond Funds	612,000	
c. Franklin County - Lease		
d. Maintenance Pool		
Investment Income	1,301,000	1,300,000
e. Water Piping Replacement System - Eastern State Hospital/Veterans Hospital Relocation		
Reauthorization & Reallocation		
Capital Construction Surplus - Additional 250,000		

f. Sprinkler System/Ward Renovation - Western State Hospital		
Bond Funds	2,200,000	
g. Structural Repair/Renovation - Oakwood		
Bond Funds	2,009,000	
h. Sprinkler System - Central State Hospital		
Investment Income	850,000	
i. Veterans Administration Hospital - Lease		

H. JUSTICE CABINET

Budget Unit	2002-03	2003-04
1. Justice Administration		
a. Purchase 2 Gas/Liquid Chromatograph Mass/Spectrometers		
Capital Construction Surplus	250,000	
2. Department of State Police		
a. Purchase of Equipment for DNA Analysis		
Restricted Funds	136,000	136,000
b. Maintenance Pool		
Investment Income	232,300	232,100
3. Department of Juvenile Justice		
a. Combined Residential/Detention Facility - Hardin -Additional		
Federal Funds	1,000,000	
b. Secure Juvenile Detention Facility #3 - Boyd - Additional		
Federal Funds	500,000	
c. Maintenance Pool		
Investment Income	371,700	371,400
d. Purchase Land/Build Gym/Class Cadet Leadership/Education Program		
Restricted Funds	130,000	
Federal Funds	1,170,000	
TOTAL	1,300,000	
e. Add Classrooms - Green River Youth Development Center		
Restricted Funds	60,000	
Federal Funds	540,000	
TOTAL	600,000	
4. Corrections Management		
a. Replace/Repair Roofs - Green River Correctional Complex		
Bond Funds	2,500,000	
b. Replace Underground Steam & Condensate Lines - Blackburn Correctional Complex		
Bond Funds	1,260,000	
c. Replace Fire Alarm System - Luther Luckett Correctional Complex		
Bond Funds	1,000,000	
d. Replace Dorm Roofs - Northpoint Training Center		
Bond Funds	600,000	
e. Replace Four Color Heidelberg Printing Press		
Restricted Funds	900,000	
f. Purchase Plascon Bagmaking Machine		
Restricted Funds	160,000	
g. Various Adult Correctional Institutions (Guaranteed Energy Performance Contract)		

h. Maintenance Pool		
Investment Income	1,672,700	1,671,400
i. New Medium Security Facility/Design Elliott County Phase II Reauthorization and Reallocation (1,800,000 - Bond Funds)		
j. Fayette County - Lease		
k. Boot Camp/Substance Abuse Treatment Center-Roederer Correctional Complex Reauthorization and Reallocation (1,004,000 - Bond Funds)		

I. LABOR CABINET

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. Franklin County - Lease		
2. Workers' Claims		
a. Franklin County - Lease		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
1. General Administration and Support		
a. KY Heritage Land Conservation		
Restricted Funds	3,000,000	3,000,000
Federal Funds	1,000,000	1,000,000
TOTAL	4,000,000	4,000,000
b. Maintenance Pool		
Investment Income	93,000	92,900
2. Department for Environmental Protection		
a. Hazardous Waste Management Fund		
Restricted Funds	2,100,000	2,100,000
b. Leaking Underground Storage Tanks		
Restricted Funds	500,000	500,000
c. Franklin County - Lease (Water)		
d. Franklin County - Lease (Air Quality)		
e. Construct Deep Well Monitoring - Maxey Flats		
Capital Construction and Equipment Purchase Contingency Fund	500,000	
3. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease		
4. Kentucky Nature Preserves Commission		
a. KY Nature Preserves Acquisition		
Other Funds	300,000	300,000

K. PERSONNEL CABINET

Budget Unit	2002-03	2003-04
1. Personnel		
a. Franklin County - Lease		
b. Computer Equipment - Kentucky Employees' Self-Service Project		
Capital Construction Surplus	200,000	

L. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
1. Council on Postsecondary Education		
a. Fire/ Life Safety/ Infrastructure - Agency Bond Pool		
Agency Bonds	80,000,000	

	b.	Franklin County - Lease	
	c.	Research Challenge Trust Fund - Endowment Match	
		Bond Funds	100,000,000
	d.	Regional University Excellence Trust Fund - Endowment Match	
		Bond Funds	20,000,000
	e.	Renovation/ Infrastructure/ New Construction - Agency Bond Pool	
		Agency Bonds	75,000,000
2.	Kentucky Higher Education Assistance Authority		
	a.	Upgrade Information Technology Systems	
		Restricted Funds	650,000
	b.	Franklin County - Lease	
	c.	KY Higher Education Student Loan Corporation	
		Lease - Jefferson County	
3.	Eastern Kentucky University		
	a.	Maintenance Pool	
		Restricted Funds	10,000,000
	b.	E & G Life Safety Begley Elevator	
		Restricted Funds	750,000
	c.	Various Buildings	
		(Guaranteed Energy Savings Project)	
	d.	Expand, Upgrade Campus Data Network	
		Restricted Funds	1,000,000
	e.	Purchase Network Education System Component	
		Restricted Funds	2,050,000
	f.	Upgrade Academic Computing	
		Restricted Funds	1,000,000
	g.	Upgrade Administrative Computing System	
		Restricted Funds	1,100,000
	h.	Property Acquisition	
		Restricted Funds	3,000,000
	i.	Replace Student Housing, Brockton	
		Restricted Funds	8,250,000
	j.	Expand and Renovate Presnell Building	
		Restricted Funds	2,000,000
	k.	Expand Indoor Tennis Facility	
		Restricted Funds	1,000,000
	l.	Watts Property (Elmwood) Renovation	
		Restricted Funds	2,000,000
	m.	Greek Row	
		Reauthorization	
	n.	Construction of New Water Line -	
		Corbin Campus/Reauthorization and Reallocation	
		Bond Funds (422,000)	
4.	Kentucky State University		
	a.	Renovate and Expand Student Center	
		Reauthorization	
		Restricted Funds - Additional	4,400,000
	b.	Young Hall Renovation	

		Reauthorization		
		Restricted Funds - Additional	6,214,000	
	c.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	1,500,000	
	d.	Migrate to Client-Server and Laptop Campus Technology		
		Restricted Funds	860,000	
	e.	Enhance Distance Education		
		Restricted Funds	560,000	
	f.	Extend Fiber Network to South Campus		
		Restricted Funds	806,000	
	g.	Enhance Web Site		
		Restricted Funds	410,000	
	h.	Implement Smart Card Technology		
		Restricted Funds	1,120,000	
	i.	Various Buildings		
		(Guaranteed Energy Savings Project)		
	j.	Cooperative Extension Building Expansion		
		Reauthorization		
		Restricted Funds - Additional	3,224,000	
5.		Morehead State University		
	a.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	3,414,000	3,414,000
	b.	Life Safety: Auxiliary Facilities		
		Restricted Funds	3,000,000	
	c.	Parking Structure		
		Restricted Funds	6,000,000	
	d.	Life Safety: E & G Facilities		
		Restricted Funds	1,350,000	
	e.	Life Safety: Claypool-Young Building		
		Restricted Funds	500,000	
	f.	Americans with Disabilities Act - E & G		
		Restricted Funds	600,000	600,000
	g.	Combs Theatre Area Reclamation		
		Restricted Funds	1,100,000	
	h.	Button Auditorium Renovation		
		Restricted Funds	3,000,000	
	i.	Various Buildings		
		(Guaranteed Energy Savings Project)		
	j.	Americans with Disabilities Act - Auxiliary		
		Restricted Funds	600,000	600,000
	k.	Land Acquisitions Related to Master Plan		
		Restricted Funds	2,000,000	
	l.	Instructional Technology Initiatives		
		Restricted Funds	2,159,000	
	m.	HPLC-Mass Spectrometer		
		Restricted Funds	140,000	
	n.	Instructional and Support Equipment		
		Restricted Funds	1,334,000	

	o.	Nuclear Magnetic Resonance Equipment	
		Restricted Funds	210,000
	p.	Network/Infrastructure Resources	
		Restricted Funds	2,250,000
	q.	Library Automation Resources	
		Restricted Funds	750,000
	r.	Distance Learning Systems	
		Restricted Funds	2,500,000
	s.	Compressed Video Resources	
		Restricted Funds	1,891,000
	t.	Instructional PC's/LANS/Peripherals	
		Restricted Funds	2,500,000
	u.	Administrative Office Systems	
		Restricted Funds	2,000,000
	v.	Central Campus Reconstruction	
		Restricted Funds	780,000
	w.	Student Wellness Center Expansion	
		Restricted Funds	700,000
	x.	Kentucky Center for Traditional Music - Phase I	
		Restricted Funds	1,000,000
	y.	Construction of Family Housing Complexes - Phase II	
		Restricted Funds	4,000,000
	z.	Tour Bus	
		Restricted Funds	400,000
6.	Murray State University		
	a.	Construct Recreation/Wellness Center	
		Restricted Funds	10,000,000
	b.	Equine Instruction Facility Addition	
		Restricted Funds	902,600
	c.	Various Buildings (Guaranteed Energy Savings Project)	
	d.	Campus Electrical Distribution System Upgrade	
		Restricted Funds	10,765,000
	e.	Construct New Dormitories	
		Restricted Funds	10,154,000
	f.	Woods Hall Mechanical and HVAC System Upgrade	
		Restricted Funds	2,000,000
	g.	Land Acquisition	
		Restricted Funds	500,200
	h.	Elizabeth Hall Asbestos Ceilings	
		Restricted Funds	450,000
	i.	Hester Hall Asbestos Ceilings	
		Restricted Funds	450,000
	j.	College Courts Renovation	
		Restricted Funds	3,636,000
	k.	College Courts Interiors (12 Buildings) Renovation	
		Restricted Funds	2,000,000
	l.	Clark Hall Replacement	

	Restricted Funds	8,000,000
m.	Clark Hall Water Piping, Fixtures Replacement	
	Restricted Funds	600,000
n.	Replace Richmond Hall	
	Restricted Funds	8,000,000
o.	College Courts Electrical System Upgrade	
	Restricted Funds	1,200,000
p.	Franklin Hall Replacement	
	Restricted Funds	8,000,000
q.	Heating and Cooling Plant Boiler Replacement	
	Restricted Funds	666,000
r.	Sparks Hall Electrical System Upgrade	
	Restricted Funds	952,000
s.	Wells Hall Electrical System Upgrade	
	Restricted Funds	600,000
t.	Applied Science Electrical System Upgrade	
	Restricted Funds	850,000
u.	Renovate Sparks Hall HVAC System	
	Restricted Funds	500,000
v.	Special Education HVAC System	
	Restricted Funds	500,000
w.	Pogue Library Electric and HVAC Renovation	
	Restricted Funds	750,000
x.	Business Building Electricity, HVAC and Classrooms Phase I	
	Restricted Funds	1,530,000
y.	General Services HVAC System Renovation	
	Restricted Funds	500,000
z.	E & G Chiller/CFC Compliance Replacement	
	Restricted Funds	585,000
aa.	Doyle Fine Arts HVAC and Energy Replacement/Retrofit	
	Restricted Funds	750,000
ab.	Richmond Hall (Residential College) Renovation	
	Restricted Funds	2,500,000
ac.	Richmond Hall Interior Renovation	
	Restricted Funds	500,000
ad.	Richmond Hall Water Piping/Fixtures Replacement	
	Restricted Funds	600,000
ae.	Clark Hall Interior Renovation	
	Restricted Funds	500,000
af.	Clark Hall Electrical System Renovation	
	Restricted Funds	400,000
ag.	Clark Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ah.	Franklin Hall HVAC System Renovation	
	Restricted Funds	1,000,000
ai.	Franklin Hall Electrical System Renovation	
	Restricted Funds	400,000
aj.	Franklin Hall Water Piping, Fixtures Replacement	

	Restricted Funds	600,000
ak.	Franklin Hall Interior Renovation	
	Restricted Funds	600,000
al.	Springer Hall HVAC and Electrical System Renovation	
	Restricted Funds	2,000,000
am.	Richmond Hall Electrical System Renovation	
	Restricted Funds	400,000
an.	Springer Hall Water Piping, Fixtures Replacement	
	Restricted Funds	800,000
ao.	Springer Hall Interior Renovation	
	Restricted Funds	600,000
ap.	Hart Hall Renovation	
	Restricted Funds	5,000,000
aq.	Hart Hall Chiller, Boilers, Towers Replacement	
	Restricted Funds	1,200,000
ar.	Hart Hall Electrical System Renovation	
	Restricted Funds	650,000
as.	Elizabeth Hall Electrical System Renovation	
	Restricted Funds	550,000
at.	Hester Hall HVAC System Renovation	
	Restricted Funds	1,000,000
au.	Hester Hall Interior Renovation	
	Restricted Funds	700,000
av.	Hester Hall Boiler, Water Heater Replacement	
	Restricted Funds	600,000
aw.	Hester Hall Electrical System Renovation	
	Restricted Funds	580,000
ax.	Winslow Cafeteria Mechanical Equipment Replacement	
	Restricted Funds	500,000
ay.	Winslow Cafeteria Exterior Repair	
	Restricted Funds	500,000
az.	Elizabeth Hall HVAC System Renovation	
	Restricted Funds	1,200,000
ba.	White Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bb.	White Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bc.	White Hall Electrical System Renovation	
	Restricted Funds	600,000
bd.	White Hall Interior Renovation	
	Restricted Funds	700,000
be.	Regents Hall Domestic Water Piping Replacement	
	Restricted Funds	500,000
bf.	Regents Hall HVAC System Renovation	
	Restricted Funds	1,000,000
bg.	Regents Hall Electrical System Renovation	
	Restricted Funds	650,000
bh.	Regents Hall Interior Renovation	

	Restricted Funds	800,000
bi.	Hart Hall Interior Renovation	
	Restricted Funds	1,200,000
bj.	Elizabeth Hall Interior Renovation	
	Restricted Funds	700,000
bk.	Capital Renewal and Deferred Maintenance Pool	
	Restricted Funds	16,885,000
bl.	Telephone Switching System Replacement	
	Restricted Funds	1,000,000
bm.	Waterfield Library HVAC and Mechanical Replacement	
	Restricted Funds	500,000
bn.	Campus Network to Gigabit Ethernet Upgrade	
	Restricted Funds	1,000,000
bo.	Lovett Auditorium Shell/Seats Replacement and Repair	
	Restricted Funds	550,000
bp.	350-Ton Chiller - Regional Special Events Center	
	Restricted Funds	400,000
bq.	COLT Ubiquitous Computing	
	Restricted Funds	434,000
br.	Baseball Field and Stadium Sidewalk Light	
	Restricted Funds	600,000
bs.	BVC Electron Microscope - Scanning	
	Restricted Funds	300,000
bt.	BVC Electron Microscope - Transmission	
	Restricted Funds	250,000
bu.	Broadcasting Education Lab Equipment	
	Restricted Funds	200,000
bv.	Business and Public Affairs Equipment	
	Restricted Funds	300,000
bw.	Central On-Line Storage System	
	Restricted Funds	966,000
bx.	College of Science Instructional/Research Equipment	
	Restricted Funds	300,000
by.	Fine Arts Studio Equipment	
	Restricted Funds	419,000
bz.	ICP-MS Fisions Instruments	
	Restricted Funds	142,000
ca.	Music Computer Equipment	
	Restricted Funds	250,000
cb.	Optics Lab Equipment	
	Restricted Funds	170,000
cc.	Recording/Playback Lab & Instrument	
	Restricted Funds	188,000
cd.	Regional Center for Emerging Technology	
	Other Funds	3,000,000
ce.	Winslow Dining Hall	
	Agency Bonds	1,750,000

7. Northern Kentucky University

	a.	New Student Union Design		
		Restricted Funds	1,200,000	
	b.	Power Distribution Infrastructure Replacement		
		Restricted Funds	700,000	
	c.	Structure in AS and T Center Repair		
		Restricted Funds	500,000	
	d.	Welcome Center Renovation		
		Restricted Funds	700,000	
	e.	Capital Renewal and Maintenance Projects		
		Restricted Funds	2,315,000	
	f.	Land Acquisition		
		Restricted Funds	2,500,000	
	g.	Central Plaza Reconstruction		
		Restricted Funds	900,000	
	h.	Digital Telecom System		
		Restricted Funds	1,900,000	
	i.	Baseball Field Relocation		
		Restricted Funds	1,500,000	
	j.	Information Technology Infrastructure		
		Restricted Funds	2,700,000	
	k.	Administrative Application System		
		Restricted Funds	2,500,000	
	l.	Intramural Sports Field		
		Restricted Funds	750,000	
	m.	Coach Bus		
		Restricted Funds	375,000	
	n.	Color Press		
		Restricted Funds	235,000	
	o.	NMR Spectrometer		
		Restricted Funds	385,000	
	p.	Various Buildings (Guaranteed Energy Savings Project)		
	q.	New Residence Hall		
		Reauthorization		
	r.	Construct Parking Deck		
		Restricted Funds	9,100,000	
	s.	Metropolitan Education and Training Center - Lease		
8.		University of Kentucky		
	a.	Early Childhood Education Lab		
		Restricted Funds	8,000,000	
	b.	Replace Oswald Building Roof		
		Restricted Funds	1,089,000	
	c.	Improve Storm Sewer Funkhouser		
		Restricted Funds	1,003,000	
	d.	Renovate Agriculture Building North Facade		
		Restricted Funds	3,820,000	
	e.	Renovate King South Building I		
		Restricted Funds		8,025,000

f.	Upgrade Vivarium, I		
	Restricted Funds		4,000,000
g.	Replace Central Fire Alarm System		
	Restricted Funds		3,000,000
h.	Replace Central Facilities Management System		
	Restricted Funds		3,000,000
i.	Replace Steam and Condensate Pipe		
	Restricted Funds		5,350,000
j.	Improve Central Heating Plant		
	Restricted Funds		2,750,000
k.	Replace Master Clock and Bell System		
	Restricted Funds		1,500,000
l.	Replace High Voltage Wiring		
	Restricted Funds		441,000
m.	Replace Three Elevators MIK Library South		
	Restricted Funds		742,000
n.	Abate Mercury Lexington Campus - Life Safety		
	Restricted Funds	1,000,000	
o.	Upgrade Fume Hoods -LC - Life Safety		
	Restricted Funds	7,015,000	
p.	Upgrade Pharmacy Fume Hood I - Life Safety		
	Restricted Funds	4,300,000	
q.	Abate Asbestos LC II - Life Safety		
	Restricted Funds	500,000	
r.	Improve Indoor Air Quality - Phase I - Life Safety		
	Restricted Funds		500,000
s.	Upgrade HVAC - CAER Ph. III - Life Safety		
	Restricted Funds		450,000
t.	Improve Barker Hall - Life Safety		
	Restricted Funds		500,000
u.	Improve Life Safety, Project Pool		
	Restricted Funds		3,708,000
v.	Renovate Livestock Disease Diagnostics Laboratory		
	Restricted Funds		2,800,000
w.	Improve Handicapped Access, Project Pool		
	Restricted Funds		1,908,000
x.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	16,388,000	
y.	Construct Environmental Institute		
	Restricted Funds		12,604,000
z.	Renovate the COHR in the Dental Building		
	Restricted Funds		1,875,000
aa.	Install Chilled Water Pipe-Clg 2 to Pit		
	Restricted Funds		1,300,000
ab.	Install Cooling Secondary Pumping		
	Restricted Funds		2,250,000
ac.	Renovate Medical Center Library		
	Restricted Funds		2,000,000

ad.	Install Medical Center Chilled Water Loop		
	Restricted Funds		625,000
ae.	Expand Plant Capacity/Infrastructure		
	Restricted Funds	15,000,000	
af.	Renovate Education Space in Medical Science		
	Restricted Funds		2,300,000
ag.	Renovate Outpatient Clinic in Kentucky Clinic		
	Restricted Funds		2,000,000
ah.	Replace Cooling Plant Chillers		
	Restricted Funds		5,000,000
ai.	Install HVAC in Keeneland Hall		
	Restricted Funds		2,962,000
aj.	Renovate Cooperstown - Phase IVA		
	Restricted Funds		1,279,000
ak.	Install HVAC in Jewell Hall		
	Restricted Funds		1,290,000
al.	Install HVAC in Boyd Hall		
	Restricted Funds		1,715,000
am.	Renovate Labs in the Pharmacy Building		
	Restricted Funds		1,400,000
an.	Renovate Cooperstown - Phase IV		
	Restricted Funds		426,000
ao.	Renovate Parking Structure #1		
	Restricted Funds		7,714,000
ap.	Replace Holmes Elevator		
	Restricted Funds		585,000
aq.	Construct Parking Structure		
	Restricted Funds		16,280,000
ar.	Expand Patient Parking in Structure #3		
	Restricted Funds		7,000,000
as.	Install HVAC in Holmes Hall		
	Restricted Funds		1,700,000
at.	Acquire Land		
	Restricted Funds	15,000,000	
au.	Renovate Running Track		
	Restricted Funds	2,500,000	
av.	Renovate Research Labs in Medical Center, I		
	Restricted Funds		750,000
aw.	Fit-up Research Labs - Allied Health Building		
	Restricted Funds		7,000,000
ax.	Renovate Research Labs in Medical Center, II		
	Restricted Funds		900,000
ay.	Renovate Research Space-Nursing Building		
	Restricted Funds		540,000
az.	Upgrade Communication Infrastructure, II		
	Restricted Funds		450,000
ba.	Renovate Research Space Medical Center, I		
	Restricted Funds		800,000

	Federal Funds		700,000
	TOTAL		1,500,000
bb.	Lease Purchase Campus Infrastructure Upgrade		
	Restricted Funds		3,500,000
bc.	Lease Purchase High Performance Research Computer		
	Restricted Funds	5,000,000	
bd.	Lease Purchase Computing Facility Uninterruptable Power Supply		
	Restricted Funds	400,000	
be.	Lease Purchase Large Scale Computing		
	Restricted Funds	3,500,000	
bf.	Lease Purchase Networked Printer		
	Restricted Funds	200,000	
bg.	Lease Purchase Pool		
	Restricted Funds		10,401,000
bh.	Lease Purchase Telephone Switch		
	Restricted Funds		3,000,000
bi.	Lease Purchase Video Switch		
	Restricted Funds	250,000	
bj.	3-D Scaling Device		
	Federal Funds		100,000
bk.	ABI Prism Sequence Detection System		
	Restricted Funds		100,000
bl.	Analytical Biosensor		
	Restricted Funds	275,000	
bm.	Area Detector Diffractometer		
	Restricted Funds	155,000	
	Federal Funds	155,000	
	TOTAL	310,000	
bn.	Automated DNA Sequencer		
	Restricted Funds	130,000	
bo.	Behavioral Monitoring & Analysis System		
	Restricted Funds	150,000	
bp.	Campus Call Auto Dial		
	Restricted Funds	125,000	
bq.	Capillary Genetic Analyzers		
	Restricted Funds	800,000	
br.	Chain Reaction Analyzer		
	Restricted Funds	150,000	
bs.	Chromatograph Mass Spectrometer, I		
	Restricted Funds	250,000	
bt.	Chromatograph Mass Spectrometer, II		
	Restricted Funds	258,000	
bu.	Combination Metabolic Analyzer		
	Restricted Funds	123,000	
bv.	Compressed Video-Hazard		
	Restricted Funds	141,000	
bw.	Confocal Microscope		
	Restricted Funds	325,000	

bx.	Confocal Microscope		
	Restricted Funds	200,000	
by.	Database Testbed		
	Restricted Funds	225,000	
bz.	Digital Router		
	Restricted Funds	100,000	
ca.	DNA Chip Analysis System		
	Restricted Funds		160,000
cb.	DNA Microarray Chip Reader		
	Federal Funds		450,000
cc.	DNA Microarray Facility		
	Restricted Funds	300,000	
cd.	DNA Microarray System		
	Restricted Funds		285,000
ce.	DNA Sequencer		
	Restricted Funds	135,000	
cf.	DNA Sequencer		
	Restricted Funds	125,000	
cg.	DNA Sequencer, I		
	Restricted Funds	134,000	
ch.	DNA Sequencer, II		
	Restricted Funds	158,000	
ci.	DNA Sequencer/Genetic Analyzer		
	Restricted Funds	110,000	
cj.	DNA Synthesizer		
	Restricted Funds	103,000	
ck.	Electron Spin Resonance Instrument		
	Restricted Funds	100,000	
	Federal Funds	100,000	
	TOTAL	200,000	
cl.	Electrophysiologic Analysis System		
	Restricted Funds	207,000	
cm.	Encapsulator		
	Restricted Funds	151,000	
cn.	Environmental Test System		
	Restricted Funds	125,000	
co.	Epi-Fluorescence Microscope		
	Restricted Funds	134,000	
cp.	ESCA-X-Ray Photoelectron Spectroscopy		
	Restricted Funds	400,000	
cq.	Flow Cytometer		
	Restricted Funds	108,000	
cr.	Flow Cytometry Lab Equipment		
	Restricted Funds	375,000	
cs.	Fluorescent Microscope & Image Analyzer		
	Restricted Funds	150,000	
ct.	Fluorescent (Luminescent) Imaging System		
	Restricted Funds	105,000	

cu.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cv.	Fluorescent Analyzer		
	Restricted Funds	109,000	
cw.	Fluorescent Activated Cell Sorter		
	Restricted Funds	237,000	
cx.	Fluorescent Cell Sorter		
	Restricted Funds	200,000	
cy.	Forage Harvester System		
	Restricted Funds	150,000	
cz.	Freeze-Thaw Apparatus		
	Restricted Funds		100,000
da.	Garbage Truck Front Loader		
	Restricted Funds	165,000	
db.	Gas Analyzer		
	Restricted Funds	100,000	
dc.	Gas Chromatograph Mass Spectrometer		
	Restricted Funds		101,000
dd.	Gas Chromatograph/MSD		
	Restricted Funds	110,000	
de.	Gas Chromatograph Mass Spectrograph		
	Restricted Funds		186,000
df.	Gene Chip Analysis Machine		
	Restricted Funds		250,000
dg.	Gene Chip Instrument System		
	Restricted Funds	450,000	
dh.	Genetic Analyzer		
	Restricted Funds		140,000
di.	GIS Teaching Lab		
	Restricted Funds	160,000	
dj.	GVG Video Switch		
	Restricted Funds	250,000	
dk.	High Performance Liquid Chromatography		
	Restricted Funds	131,000	
dl.	High Power CO2 Laser		
	Restricted Funds		250,000
dm.	High Pressure Liquid Chromatograph		
	Restricted Funds		100,000
	Federal Funds		100,000
	TOTAL		200,000
dn.	High Resolution Optical Microscope		
	Restricted Funds	110,000	
do.	High Resolution Phosophor Imager		
	Restricted Funds	206,000	
dp.	High Temperature Optical Microscope		
	Restricted Funds		105,000
dq.	High-Speed Signal Processor		
	Federal Funds	150,000	

dr.	Holographic System/Image Analyzer		
	Restricted Funds		110,000
ds.	HPLC Mass Spectrophotometer		
	Restricted Funds	220,000	
dt.	Image Analysis System		
	Restricted Funds	206,000	
du.	Image Analyzer System		
	Restricted Funds	206,000	
dv.	Inductive Coupled Plasma Spectrometer		
	Restricted Funds		110,000
dw.	Inductive Coupled Plasma Unit		
	Restricted Funds	110,000	
dx.	Inductive Coupled Spectrometer System		
	Restricted Funds		120,000
dy.	Interaction Analyzer		
	Restricted Funds	150,000	
dz.	Inverted Microscope-Fluoroscope		
	Restricted Funds	155,000	
ea.	Inverted Scope		
	Restricted Funds		100,000
eb.	Laser Confocal Microscope		
	Restricted Funds	312,000	
ec.	Laser System		
	Restricted Funds	125,000	
	Federal Funds	125,000	
	TOTAL	250,000	
ed.	LCT Flight Mass Spectrometer		
	Restricted Funds	220,000	
ee.	LIMS Bioinformatics Equipment		
	Federal Funds		136,000
ef.	Liquid Chromatograph		
	Restricted Funds		105,000
eg.	Liquid Chromotograph-Mass Spectrometer		
	Restricted Funds		320,000
eh.	Liquid Filling/Stoppering Line		
	Restricted Funds	351,000	
ei.	Mass Spectrometer		
	Restricted Funds		400,000
ej.	MB Ultracentrifuge		
	Restricted Funds	354,000	
ek.	MB/GT Phospho-Imager		
	Restricted Funds	128,000	
el.	Multiphoton Imaging System		
	Restricted Funds	505,000	
em.	Multiphoton Scanning Microscope		
	Restricted Funds	300,000	
en.	Multiunit Microbial Chamber		
	Restricted Funds	250,000	

eo.	NIR Spectrophotometer		
	Restricted Funds	125,000	
ep.	Open MRI Unit		
	Restricted Funds		1,000,000
eq.	Optical Disk Server		
	Restricted Funds		180,000
er.	Patient Classification Equipment		
	Restricted Funds		260,000
es.	Physiology Workstation		
	Restricted Funds	101,000	
et.	Protein Synthesizer		
	Restricted Funds		206,000
eu.	Quadrapole Mass Spectrometer		
	Restricted Funds	360,000	
ev.	Rapid Scanning Monochrometer		
	Restricted Funds		130,000
ew.	Research Grade Light Microscope		
	Restricted Funds		103,000
ex.	Scanning Electron Microscope		
	Restricted Funds	175,000	
ey.	Semi-solid Manufacturing Equipment		
	Restricted Funds		211,000
ez.	Sequence Detection System		
	Restricted Funds		100,000
fa.	Spectograph for Oligonucleotide Analysis		
	Restricted Funds	250,000	
fb.	Studio Recording Equipment		
	Restricted Funds		113,000
fc.	Telemedicine Rural Health		
	Restricted Funds		416,000
fd.	Telemedicine Systems		
	Restricted Funds		600,000
fe.	Terminal Sterilizing Autoclave		
	Restricted Funds		221,000
ff.	Ultracentrifuge		
	Restricted Funds	117,000	
fg.	Virtual Environment Simulator		
	Restricted Funds		125,000
fh.	X-Ray Defractometer		
	Federal Funds		700,000
fi.	Upgrade Scanner System		
	Restricted Funds		500,000
fj.	Upgrade HVAC II - Hospital		
	Restricted Funds	3,500,000	
fk.	Renovate Roach Building 4th Floor - Hospital		
	Restricted Funds	3,990,000	
fl.	Consolidate Imaging Services - Hospital		
	Restricted Funds		3,675,000

fm.	Construct Storage/Distribution Center - Hospital		
	Restricted Funds		1,019,000
fn.	Construct Limited-Stay Facility - Hospital		
	Restricted Funds		5,460,000
fo.	Renovate Kitchen I - Hospital		
	Restricted Funds	1,050,000	
fp.	Implement Land Use Plan III - Hospital		
	Restricted Funds	2,625,000	
fq.	Construct Parking Structure III - Hospital		
	Restricted Funds		7,350,000
fr.	Protect Environment II - Hospital		
	Restricted Funds	1,575,000	
fs.	Upgrade Transport Systems IV - Hospital		
	Restricted Funds	735,000	
ft.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,100,000	
fu.	Modify Nursing Unit XII - Hospital		
	Restricted Funds		3,500,000
fv.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	
fw.	Construct Outpatient Services III - Hospital		
	Restricted Funds	4,700,000	
fx.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds		1,000,000
fy.	Implement Land Use Plan IV - Hospital		
	Restricted Funds		2,500,000
fz.	Upgrade Transport Systems V - Hospital		
	Restricted Funds		800,000
ga.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	
gb.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,172,000	
gc.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	
gd.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds		1,500,000
ge.	Upgrade Building/Site IV - Hospital		
	Restricted Funds		800,000
gf.	Expand Parking II - Hospital		
	Restricted Funds	3,200,000	
gg.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	7,638,000	
gh.	Construct Primary Care Center II - Hospital		
	Restricted Funds		10,172,000
gi.	Construct Building Connectors III - Hospital		
	Restricted Funds	3,000,000	
gj.	Construct Outpatient Diagnostic/Treatment Facility II - Hospital		
	Restricted Funds	12,672,000	

gk.	Construct Outpatient Care Facility II - Hospital		
	Restricted Funds		6,172,000
gl.	Upgrade Communication Services - Hospital		
	Restricted Funds		1,000,000
gm.	Construct Business Facility II - Hospital		
	Restricted Funds		9,000,000
gn.	Create Universal Nursing Unit - Hospital		
	Restricted Funds	1,000,000	
go.	Design Patient Bed Tower - Hospital		
	Restricted Funds	10,000,000	
gp.	Expand Surgical Services - Hospital		
	Restricted Funds	3,200,000	
gq.	Accelerator		
	Restricted Funds	1,600,000	
gr.	Angiography Unit		
	Restricted Funds	1,740,000	
gs.	Angiography Unit		
	Restricted Funds	1,276,000	
gt.	ATL Ultrasound		
	Restricted Funds	220,000	
gu.	Biplane Angiography		
	Restricted Funds	1,160,000	
gv.	Cardiac Catheterization Image Management System		
	Restricted Funds	957,000	
gw.	Cardiac Ultrasound		
	Restricted Funds	1,600,000	
gx.	C-Arm X-Ray Unit		
	Restricted Funds	350,000	
gy.	C-Arm X-Ray Unit		
	Restricted Funds	440,000	
gz.	C-Arm X-Ray Unit		
	Restricted Funds	275,000	
ha.	Clinical System Enterprise		
	Restricted Funds	5,800,000	
hb.	Computing Infrastructure Update		
	Restricted Funds	2,500,000	
hc.	CR PAC Server		
	Restricted Funds	275,000	
hd.	CT Scanner		
	Restricted Funds	1,914,000	
he.	CT Scanners		
	Restricted Funds	3,480,000	
hf.	CT Simulator		
	Restricted Funds	1,160,000	
hg.	CT Simulator		
	Restricted Funds	1,200,000	
hh.	Data Storage Facility		
	Restricted Funds	750,000	

hi.	Diagnostic Radiology Unit	
	Restricted Funds	330,000
hj.	Digital Medical Record Expansion	
	Restricted Funds	4,640,000
hk.	Digital Enhancement	
	Restricted Funds	1,085,000
hl.	Digital Imaging	
	Restricted Funds	957,000
hm.	Digital Orbitor Camera	
	Restricted Funds	275,000
hn.	Digital Radiology	
	Restricted Funds	4,060,000
ho.	Digital Radiology	
	Restricted Funds	1,020,000
hp.	EKG Unit	
	Restricted Funds	400,000
hq.	EKG Unit	
	Restricted Funds	440,000
hr.	Electrophysiology Lab	
	Restricted Funds	5,800,000
hs.	EMG Unit	
	Restricted Funds	250,000
ht.	Endoscopic Ultrasound	
	Restricted Funds	440,000
hu.	Endoscopic Video System	
	Restricted Funds	300,000
hv.	Endoscopic Video Ultrasound	
	Restricted Funds	275,000
hw.	Filmless System	
	Restricted Funds	150,000
hx.	Fluoroscopy Unit	
	Restricted Funds	550,000
hy.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	550,000
hz.	General Radiology/Fluoroscopic Unit	
	Restricted Funds	500,000
ia.	Intracardiac Laser	
	Restricted Funds	500,000
ib.	Intracardiac Laser	
	Restricted Funds	550,000
ic.	Intraoperative Radiation Therapy	
	Restricted Funds	1,300,000
id.	Laboratory Analyzer	
	Restricted Funds	500,000
ie.	Linear Accelerator	
	Restricted Funds	2,050,000
if.	Managed Care Enterprise	
	Restricted Funds	1,160,000

ig.	Minimally Invasive Room	
	Restricted Funds	1,700,000
ih.	Mobile CT	
	Restricted Funds	1,100,000
ii.	Mobile CT	
	Restricted Funds	1,000,000
ij.	Mobile Fluoroscopic Unit	
	Restricted Funds	250,000
ik.	Mobile Radiology Unit	
	Restricted Funds	250,000
il.	MRI Upgrade	
	Restricted Funds	500,000
im.	Nuclear Medicine Camera	
	Restricted Funds	1,000,000
in.	OB Ultrasound	
	Restricted Funds	350,000
io.	OR Perioperative IS Document Systems Upgrade	
	Restricted Funds	150,000
ip.	Patient System Enterprise	
	Restricted Funds	4,640,000
iq.	Portal Imaging System	
	Restricted Funds	200,000
ir.	Portal Imaging System	
	Restricted Funds	250,000
is.	QuadRIS Upgrade	
	Restricted Funds	300,000
it.	Rad. Med. Software/System	
	Restricted Funds	350,000
iu.	Radiation Therapy Unit Upgrade	
	Restricted Funds	400,000
iv.	Radiographic Fluoroscopic Unit	
	Restricted Funds	200,000
iw.	Radiographic Fluoroscopic Unit	
	Restricted Funds	150,000
ix.	Radiographic Unit	
	Restricted Funds	400,000
iy.	Radiographic Unit	
	Restricted Funds	350,000
iz.	Radiology Ultrasound	
	Restricted Funds	440,000
ja.	SPECT System	
	Restricted Funds	1,000,000
jb.	Steam Autoclave	
	Restricted Funds	450,000
jc.	Sterrad Sterilizer	
	Restricted Funds	450,000
jd.	Surgical C-Arm (ISS) System	
	Restricted Funds	650,000

je.	Surgical Laser	
	Restricted Funds	500,000
jf.	Surgical Microscope	
	Restricted Funds	500,000
jg.	Teleradiology	
	Restricted Funds	200,000
jh.	Ultrasound Image Management	
	Restricted Funds	800,000
ji.	Upgrade - HIS Computing Facility	
	Restricted Funds	2,900,000
jj.	Upgrade for Servers	
	Restricted Funds	800,000
jk.	Vascular Ultrasound	
	Restricted Funds	300,000
jl.	Vascular Ultrasound	
	Restricted Funds	900,000
jm.	Washer	
	Restricted Funds	350,000
jn.	Various Buildings (Guaranteed Energy Savings Project)	
jo.	Center for Rural Health	
	Reauthorization ($10,100,000 - Bond Funds)	
	Federal Funds - Additional	2,000,000
jp.	College of Medicine - Lease	
jq.	Medical Center Contract Sponsored Programs - Lease	
jr.	Medical Center Patient Facility - Lease	
js.	Medical Center Research Grants Projects - Lease	
jt.	Pharmacy Contracted Programs - Lease	
ju.	Center for Rural Health - Lease	
jv.	Kentucky Utilities Building - Lease	
jw.	Agricultural Plant Science Facility	
	Reauthorization	
	Restricted Funds - Additional	1,300,000
jx.	Business and Economic Complex	
	Restricted Funds	1,000,000
jy.	Student Housing Apartment Complex - Lease Purchase	
	Restricted Funds	13,000,000
jz.	Enterprise Resource Planning System - Lease Purchase	
	Restricted Funds	30,000,000
ka.	UK/UL/Frankfort Research Planning System - Lease-Purchase	
	Restricted Funds	6,000,000
kc.	University Housing - Lease	
	Restricted Funds	1,650,000
kd.	Center for Pharmaceutical and Science Technology	
	Restricted Funds	14,000,000
9.	University of Louisville	
a.	Expand - Research Resources Center	
	Restricted Funds	2,596,000

	Other Funds	7,787,000
	TOTAL	10,383,000
b.	Property Acquisition	
	Restricted Funds	1,300,000
c.	Construct - Boathouse for Women's Rowing	
	Other Funds	2,488,000
d.	Field Turf - Practice Field Facility	
	Other Funds	750,000
e.	Expand-Oppenheimer Hall for Social Work	
	Other Funds	5,450,000
f.	Expand - Cardinal Arena in Student Activities Center	
	Other Funds	4,000,000
g.	Renovate - Dental Clinic and Sterilization	
	Other Funds	3,637,000
h.	Renovate - K-Wing 2nd and 4th Floors	
	Restricted Funds	1,040,000
i.	Expand - Ekstrom Library - New Wing	
	Federal Funds	14,000,000
j.	Construct - Residence Hall - 400 Beds, Phase I	
	Other Funds	19,718,000
k.	Parking Spaces - Health Sciences	
	Restricted Funds	825,000
l.	Renovate - MDR Building, Phase IV	
	Restricted Funds	2,530,000
m.	Renovate - Stoddard Johnston - Married Students	
	Other Funds	5,829,000
n.	Plasmon Resonance Instrument	
	Restricted Funds	250,000
o.	High Resolution Mass Spectrometer	
	Federal Funds	1,150,000
p.	Flow Fluorescence Activated Cell	
	Restricted Funds	130,000
q.	Microcalorimeter	
	Restricted Funds	140,000
r.	Confocal Microscope	
	Restricted Funds	280,000
s.	Neuro Scan ESI - 128:128 Channel	
	Restricted Funds	100,000
	Federal Funds	40,000
	TOTAL	140,000
t.	Laser Microfabrication Lab	
	Restricted Funds	275,000
	Federal Funds	250,000
	TOTAL	525,000
u.	X-Ray Diffraction Module	
	Restricted Funds	500,000
	Federal Funds	250,000
	TOTAL	750,000

v.	Particle Imaging Velocimetry (PIV)	
	Restricted Funds	167,000
w.	Confocal Laser Scanning Microscope	
	Restricted Funds	400,000
x.	CNC Grinding Machine	
	Restricted Funds	164,000
y.	Load Application System	
	Restricted Funds	240,000
z.	Axis (5) CNC Machining	
	Restricted Funds	150,000
aa.	Color Digital Output Engine	
	Restricted Funds	700,000
ab.	High Volume Output Devices Duplicator	
	Restricted Funds	876,000
ac.	High Speed Graphics Imaging System	
	Restricted Funds	200,000
ad.	Digital Communication Network	
	Restricted Funds	2,000,000
ae.	Network Switching System	
	Restricted Funds	2,000,000
af.	Electronic Research Information System	
	Restricted Funds	2,000,000
ag.	Computer Workstations for Libraries	
	Restricted Funds	466,000
ah.	High Availability Enterprise System	
	Restricted Funds	1,430,000
ai.	Client Server System - File Server	
	Restricted Funds	1,100,000
aj.	Computer Processing System	
	Restricted Funds	2,000,000
ak.	Engineering Scientific Processor	
	Restricted Funds	1,100,000
al.	Supercomputing System	
	Restricted Funds	1,500,000
am.	Upgrade Supercomputer	
	Restricted Funds	400,000
an.	Autonomous Mobility Platform	
	Restricted Funds	400,000
	Federal Funds	60,000
	TOTAL	460,000
ao.	Concave Reality Unit	
	Restricted Funds	250,000
ap.	High Energy Physics Data Analysis	
	Restricted Funds	175,000
	Federal Funds	175,000
	TOTAL	350,000
aq.	Gel Blot Image Analysis System	
	Restricted Funds	145,000

ar.	High Resolution Hybrid Mass Spectrometer	
	Restricted Funds	500,000
	Federal Funds	100,000
	TOTAL	600,000
as.	Digital Micro-Luminography System	
	Restricted Funds	120,000
at.	Electronic Darkroom	
	Restricted Funds	193,000
au.	Laser Desorption/Ionization Mass Spectrometer	
	Restricted Funds	200,000
av.	Molecular Tagging Velocimetry	
	Restricted Funds	245,000
aw.	Peak 3D Equipment	
	Restricted Funds	120,000
ax.	Deposition Attachment - UHV Facility	
	Restricted Funds	500,000
ay.	Electric Injection Molding Machine	
	Restricted Funds	110,000
az.	Materials Testing System	
	Restricted Funds	218,000
ba.	Specialized Central Processing Unit	
	Restricted Funds	500,000
bb.	Protein Chip Analyzer	
	Restricted Funds	200,000
bc.	Nucleic Acid Microchip Analyzer	
	Restricted Funds	200,000
bd.	Analytical Ultracentrifuge	
	Restricted Funds	145,000
be.	High Resolution SEM	
	Restricted Funds	360,000
bf.	Intermediate Voltage Transmission Electronmicroscope	
	Restricted Funds	550,000
bg.	Micro-Computed Tomography Imager	
	Restricted Funds	480,000
bh.	Automated Synthesizer	
	Restricted Funds	95,000
	Federal Funds	95,000
	TOTAL	190,000
bi.	EPR Spectrometer Update	
	Restricted Funds	60,000
	Federal Funds	65,000
	TOTAL	125,000
bj.	Virtual Reality Display System	
	Restricted Funds	90,000
	Federal Funds	90,000
	TOTAL	180,000
bk.	Various Buildings	

		(Guaranteed Energy Savings Project)	
	bl.	Cardinal Park - Natatorium	
		Restricted Funds	7,335,000
		Other Funds	12,489,000
		TOTAL	19,824,000
	bm.	Expand HSC Parking Garage - Two Additional Floors	
		Restricted Funds	4,794,000
	bn.	Baseball Stadium	
		Other Funds	5,900,000
	bo.	Cardinals' Nest - Housing	
		Other Funds	6,500,000
	bp.	Land Purchase and Construction of Floyd Street Parking Lot	
		Other Funds	2,290,000
	bq.	UL and UK Fiber Optics Purchase	
		Restricted Funds	4,650,000
	br.	Biomedical Research Building - Phase III Planning	
		Restricted Funds	4,835,100
10.	Western Kentucky University		
	a.	Various Buildings	
		(Guaranteed Energy Savings Project)	
	b.	Capital Renewal and Deferred Maintenance Pool	
		Restricted Funds	10,000,000
	c.	Electrical Distribution Phase IV and V Renovation	
		Restricted Funds	4,284,000
	d.	Digital Television Transmission System	
		Restricted Funds	1,993,000
		Federal Funds	1,328,000
		TOTAL	3,321,000
	e.	Renovate/Construct Telephone Infrastructure	
		Restricted Funds	3,000,000
	f.	Van Meter Hall Renovation - Design	
		Restricted Funds	688,000
	g.	Central Heat Plant Renovation - Phase I	
		Restricted Funds	1,273,000
	h.	Garrett Conference Center Renovation - Design	
		Restricted Funds	858,000
	i.	Server	
		Restricted Funds	880,000
	j.	Video Server	
		Restricted Funds	800,000
	k.	Downing University Center Renovation	
		Restricted Funds	11,320,000
	l.	Land Acquisition	
		Restricted Funds	400,000
11.	Kentucky Community and Technical College System		
	a.	KCTCS System Office - Lease-Purchase with the City of Versailles	
	b.	Capital Renewal and Deferred Maintenance Pool	
		Restricted Funds	13,444,000

c.	Upgrade for ADA/Fire Safety - Somerset Community College	
	Restricted Funds	4,585,000
d.	Master Plan Development and Upgrade Pool	
	Restricted Funds	650,000
e.	HVAC System Renovation - Daviess Co. Campus	
	Restricted Funds	2,440,000
f.	Install FiberOptics, Allied Health Building	
	Restricted Funds	558,000
g.	Campus HVAC System Renovation - Somerset Community College	
	Restricted Funds	2,173,000
h.	Replace HVAC System, 77 Addit, Laurel TC	
	Restricted Funds	1,280,000
i.	Enclose Courtyard/Roof - Falkenstine Hall	
	Restricted Funds	1,359,000
j.	Computer Interfaced Distillation Column	
	Restricted Funds	114,000
k.	Helicopter for Aircraft Tech Program - JTC	
	Restricted Funds	271,000
l.	New Telephone System Owensboro - CC & TC	
	Restricted Funds	340,000
m.	Multi-engine Turbine Power Aircraft	
	Restricted Funds	300,000
n.	Diagnostic Medical Sonography Unit	
	Restricted Funds	110,000
o.	Various Buildings (Guaranteed Energy Savings Project)	
p.	Henderson Community College - Lease	
q.	Jefferson Community College - Lease	

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
1. Housing, Buildings and Construction		
a. Franklin County - Lease		
2. Department of Insurance		
a. Franklin County - Lease		
3. Public Advocacy		
a. Franklin County - Lease		

N. REVENUE

Budget Unit	2002-03	2003-04
1. Office of the Secretary		
a. Franklin County - Lease		
b. Franklin County - Lease		
c. Franklin County - Lease		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	2002-03	2003-04

The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.

1. Department of Parks
   a. Improve Water System - Natural Bridge

Emergency Repair, Maintenance, and Replacement Fund		500,000
b. Maintenance Pool		
Investment Income	3,438,400	3,435,700
c. Campground Electrical/Life Safety Upgrade and Reconstruction		
Investment Income		2,100,000
d. Construct Wave Barrier - Jenny Wiley		
Reauthorization		
e. Kincaid Lake Golf Course		
Reauthorization		
f. Ben Hawes State Park Project/Various Improvements		
Reauthorization and Reallocation		
2. Kentucky Horse Park		
a. Maintenance Pool		
Investment Income	441,400	441,400
b. Painting, Fencing, and Infrastructure Repair		
Investment Income	225,000	
c. Design and Infrastructure of a New Indoor Arena and Campground Expansion		
General Fund		400,000
3. Kentucky State Fair Board		
a. Purchase DOT Building		
Bond Funds	500,000	
b. Replace Roofs		
Bond Funds	2,800,000	
c. Maintenance Pool		
Restricted Funds	1,500,000	1,500,000
d. Teleconference Center - KICC		
Reauthorization and Reallocation (250,000 - Restricted Funds)		

The above Restricted Funds, as appropriated in accordance with 2000 Ky. Acts ch. 549, Part II, O. Tourism Development Cabinet, 2. Kentucky State Fair Board, c. Freedom Hall-Portable Trailers, are reauthorized and reallocated to provide for the completion of the Kentucky International Convention Center Teleconferencing Center.

4. Department of Fish and Wildlife Resources		
a. Land Acquisition Pool		
Restricted Funds	500,000	500,000
b. Maintenance Pool		
Restricted Funds	300,000	300,000

P. TRANSPORTATION CABINET

Budget Unit	2002-03	2003-04
1. Highways		
a. TRNSPRT System		
Road Fund	3,500,000	
b. Statewide Transportation Operations Center		
Federal Funds		5,680,000
Road Fund		1,420,000
TOTAL		7,100,000
2. General Administration and Support		
a. Construct Martin County Maintenance Facility and Salt Dome		
Road Fund		845,000

b.	Replace HVAC System - Franklin County Materials Lab		
	Road Fund		600,000
c.	Construct and Repair Various Salt Storage Structures		
	Road Fund		813,000
d.	Asbestos Survey/Abatement/Air Monitoring		
	Road Fund		100,000
e.	Building Renovation and Emergency Repairs		
	Road Fund	840,000	
f.	Conduct Paving and Landscaping		
	Road Fund		600,000
g.	Wastewater Treatment/Water Projects		
	Road Fund		200,000
h.	HVAC Maintenance and Repair		
	Road Fund		800,000
i.	Hydraulic Hoists-Heavy Equipment		
	Road Fund		300,000
j.	Purchase of High Speed Duplicators (Two)		
	Road Fund		600,000
k.	Purchase Electrical Digital Surveying System		
	Road Fund		150,000
l.	Purchase Concrete and Geotech Testing System		
	Road Fund		146,000
m.	Purchase of Core Drill		
	Road Fund		210,000
n.	Various Parks Roads		
	Road Fund	1,500,000	1,500,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit		2002-03	2003-04
1.	General Administration and Program Support		
a.	Implement Guaranteed Energy Savings (Guaranteed Energy Performance Contract)		
b.	Implement ADA Barrier Removal Pool		
	Investment Income	125,000	
c.	Maintenance Pool		
	Investment Income	395,000	394,600
2.	Vocational Rehabilitation		
a.	Construct New Sewage Treatment Plant-Perkins Rehabilitation Center		
	Bond Funds	265,000	
b.	Franklin County - Lease		
c.	Fayette County - Lease		
3.	Employment Services		
a.	DES Facility Renovation Pool		
	Reauthorization		

The General Assembly authorizes the Department to develop and implement a facility replacement and renovation program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government. Any project estimated to cost over $400,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

R. COAL SEVERANCE TAX PROJECTS

Notwithstanding KRS 42.4588(2) and (4), the following projects are authorized and appropriated from Local Government Economic Development Fund moneys from the respective single county fund pursuant to KRS 42.4592 or General Fund supported Bond Funds for public purposes in the following coal-producing counties in the manner and amounts enumerated. These projects are determined by the General Assembly to be important to the furtherance of the public policy objectives and economic development purposes for which the Local Government Economic Development Program was established. The amounts appropriated are estimates. Actual expenditures and encumbrances shall be limited to the actual receipts realized and available in the respective single county fund. These amounts are comprised of estimated receipts for fiscal year 2002-2003 and fiscal year 2003-2004 in combination with prior unobligated balances in the respective single county funds. To the extent that a county that is authorized to proceed with a project enumerated below receives more single county Local Government Economic Development Fund moneys than are appropriated in this Act, the county may direct those funds to offset a cost overrun on any of the projects enumerated below upon approval of the Commissioner of the Coal County Development Office.

Notwithstanding KRS 42.4592, funds from each single county fund that equals the amount of Bond Funds for the respective county shall be deposited to the General Fund in fiscal year 2003-2004. The Coal Severance Tax Projects Bonds shall not be issued prior to September 1, 2003. The Bond Funds totaling $10,602,992 are supported with General Fund debt service of $980,000 which is included in the Finance and Administration Cabinet Debt Service appropriation.

(1) GOVERNMENT OPERATIONS

a.	Budget Unit Local Government	2002-03	2003-04
Bell County			
1.	Bell County - Middlesboro Airport - Operations		
	Restricted	50,000	
2.	Bell County - Middlesboro History Museum - Operations		
	Restricted	7,500	2,500
3.	Bell County - Middlesboro Rescue Squad - Operations		
	Restricted	12,500	6,250
4.	Bell County Animal Shelter - Improvements		
	Restricted	5,000	
5.	Bell County Fiscal Court - Ambulance and Equipment		
	Restricted	75,000	
6.	Bell County Fiscal Court - Bell County 4-H Club - Operations		
	Restricted		1,000
7.	Bell County Fiscal Court - Bell County Animal Shelter - Operations or Repairs		
	Restricted		5,000
8.	Bell County Fiscal Court - Frakes Senior Citizens - Operations		
	Restricted		5,000
9.	Bell County Fiscal Court - Middlesboro Fire Department - Equipment		
	Restricted		15,000
10.	Bell County Fiscal Court - Middlesboro Little League - Operations		
	Restricted		7,500
11.	Bell County Fiscal Court - Red Bird Senior Citizens - Operations		
	Restricted		2,500
12.	Bell County Fiscal Court - Water and/or Various Projects		
	Bond Fund		1,000,000
13.	Bell County Fiscal Court - Water Project - Wx2101 3907 Earmarked		
	Restricted	280,000	
14.	Bell County Health Department - Operations		
	Restricted	5,000	2,500
15.	Bell County Interfaith - Operations		
	Restricted	5,000	2,500

16.	Bell County Jail - Repairs		
	Restricted	50,000	
17.	Bell County Little League - Improvements		
	Restricted	25,000	
18.	Bell County Public Library - Operations		
	Restricted	5,000	2,500
19.	Bell County Schools - Divided Evenly Among Each Site Based Council		
	Restricted	25,000	
20.	Bell County Senior Citizens - For Their Share of Pineville City School Wellness Center		
	Restricted	50,000	
21.	Bell County Senior Citizens - Operations		
	Restricted	25,000	10,000
22.	Bell County Veterans Park - Improvements		
	Restricted	5,000	
23.	Bell County Volunteer Fire Department		
	Restricted	25,000	
24.	Bell County Volunteer Fire Department - Generator at Central		
	Restricted	25,000	
25.	Bell County Volunteer Fire Department - Lone Jack Co. for Repairs		
	Restricted	25,000	
26.	City of Middlesboro - Various Projects		
	Restricted	200,000	85,000
27.	City of Pineville - Various Projects		
	Restricted	75,000	37,500
28.	Frakes Volunteer Fire Department - Operations		
	Restricted	12,500	6,250
29.	Middlesboro City Schools - Divided Evenly Among Each Site Based Council		
	Restricted	25,000	
30.	Middlesboro Little League/Senior League - T-ball Improvements		
	Restricted	12,500	
31.	P-38 Museum at Middlesboro - Operations		
	Restricted	150,000	
32.	Pineville School - Divided Evenly Among Each Site Based Council		
	Restricted	25,000	
Boyd County			
33.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted		10,000
34.	Ashland Alliance - Various Economic Development Efforts and Operations		
	Restricted	10,000	
35.	Ashland American Little League - Equipment and Facility Improvements		
	Restricted	10,000	
36.	Boyd County AABC League - Equipment and Facility Improvements		
	Restricted	10,000	
37.	Boyd County Board of Education - Cannonsburg Elementary School - Playground Equipment and Improvements		
	Restricted	10,000	
38.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		

	Restricted	35,000	
39.	Boyd County Fiscal Court - Various Parks, Fairs, Recreation and Economic Development Efforts		
	Restricted		37,870
40.	Boyd County Fiscal Court - Water and Sewer Projects		
	Bond Fund		100,000
41.	Boyd County Fiscal Court - Water and Sewer Projects		
	Restricted	100,000	
42.	Boyd County National Little League - Equipment and Facility Improvements		
	Restricted	10,000	
43.	City of Ashland - Water Treatment Plant Improvements		
	Restricted	48,139	
44.	City of Catlettsburg - Downtown Development		
	Restricted	15,000	
Breathitt County			
45.	Breathitt County Water District - Water Line Extensions.		
	Bond Fund		781,804
46.	Breathitt County Water District - Water Line Extensions		
	Restricted	500,000	
47.	City of Jackson - Water Treatment Plant Expansions		
	Restricted	600,000	
Butler County			
48.	GPS/GIS Mapping for 911 System		
	Restricted	114,000	
49.	Repeater System for Fire, Ambulance, Sheriff, and EMS Response		
	Restricted	15,000	
50.	Various Projects		
	Restricted		65,144
Carter County			
51.	Carter County - Fire Departments		
	Restricted		60,000
52.	Carter County Fair Board - Property Acquisition for Permanent Fair Location		
	Restricted	25,000	
53.	Carter County Fiscal Court Recreational/Park - Feasibility, Planning, Property Acquisition, or Improvements		
	Restricted	33,916	
54.	Carter County School System - Soccer Fields Property Acquisition		
	Restricted	25,000	
55.	City of Grayson - City Pool Repair and Maintenance/Operations		
	Restricted	25,000	
56.	Grahn Community Center Production Allowance		
	Restricted	10,000	
57.	Grayson Little League Grounds		
	Restricted	5,000	
58.	Grayson Utility Commission - Water Treatment Plant		
	Bond Fund		107,018
59.	Grayson Utility Commission - Water Treatment Plant		
	Restricted	50,000	

60.	Mt. Savage Furnace Historic Marker Replacement		
	Restricted	1,600	
61.	Olive Hill Little League		
	Restricted	5,000	
62.	Rattlesnake Ridge Water District - Water Line Extension		
	Restricted	150,000	
63.	Someday Outdoor Drama Production Allowance		
	Restricted	5,000	
Christian County			
64.	Christian County - Trail of Tears		
	Restricted	22,000	
65.	Christian County - Visitors Center		
	Restricted	18,000	
66.	Christian County Water District		
	Restricted	150,000	
Clay County			
67.	City of Manchester - Clay County Fiscal Court - Sewer Line and Treatment Plant Upgrade		
	Restricted	300,000	
68.	City of Manchester - County-wide Water Line Extension		
	Bond Fund		246,400
69.	City of Manchester - County-wide Water Line Extension		
	Restricted	392,894	
70.	City of Pineville - Red Bird Mission Water Line Project		
	Restricted	30,000	
71.	Fiscal Court - Purchase Vehicles for Sheriff and Jailer		
	Restricted	75,000	
72.	North Manchester Water Association Water Storage Tank		
	Restricted	230,000	
Daviess County			
73.	Daviess County - Fire Station		
	Restricted	240,000	
74.	Daviess County Parks - Equipment		
	Restricted	200,000	
75.	H.L. Neblett Center Capital Project		
	Restricted	150,000	150,000
76.	Owensboro Southwest Park Project		
	Restricted		200,000
Elliott County			
77.	City of Sandy Hook - Downtown Beautification, Parks, and Street Repairs		
	Restricted	12,000	9,000
78.	Elliott County Board of Education-Athletic Dept. - Equipment, Operations, and Improvements		
	Restricted	10,000	
79.	Elliott County Fiscal Court - County Public Library - Operations and Equipment Improvements.		
	Restricted	25,000	25,000
80.	Elliott County Fiscal Court - Elliott County Ambulance Dept. - Equipment,		

	Improvements, and Operations.		
	Restricted	20,000	25,000
81.	Elliott County Fiscal Court - Elliott County Fire Department Construction, Equipment, and Operations		
	Restricted	40,000	35,000
82.	Elliott County Fiscal Court - Various Economic Development, Recreation, Parks, County Building Operations and Ground Improvements		
	Restricted	30,000	50,000
Floyd County			
83.	Floyd County Fiscal Court - Allen Central - Operations		
	Restricted		50,000
84.	Floyd County Fiscal Court - Betsy Layne - Operations		
	Restricted		50,000
85.	Floyd County Fiscal Court - Fire Protection		
	Restricted	100,000	
86.	Floyd County Fiscal Court - Landfill		
	Restricted		19,711
87.	Floyd County Fiscal Court - Martin City Flood Control		
	Restricted		20,000
88.	Floyd County Fiscal Court - Martin Community Center - Operations		
	Restricted		25,000
89.	Floyd County Fiscal Court - Prestonsburg Fieldhouse		
	Restricted		200,000
90.	Floyd County Fiscal Court - South Floyd		
	Restricted		25,000
91.	Floyd County Parks Improvements		
	Restricted		150,000
92.	Floyd County Senior Citizens Center - To be divided equally among the following seven centers - Wheelwright, Martin, McDowell, Betsy Layne, Mud Creek, Prestonsburg, and Wayland		
	Restricted		35,000
93.	Southern Water and Sewer District - Water Line Extensions at Beaver Creek - Water Bond Payoff		
	Restricted	491,419	
94.	Southern Water and Sewer District - Water Line Extensions in Southern Floyd County		
	Bond Fund		1,000,000
Greenup County			
95.	City of Flatwoods - Senior Citizens Center		
	Restricted	8,000	
96.	City of Greenup-Water System Phase VII Expansion Project		
	Bond Fund		99,399
97.	City of Greenup-Water System Phase VII Expansion Project		
	Restricted	14,155	
98.	City of Russell - Sewer System		
	Restricted	4,000	
99.	City of Worthington - City of Raceland - Water System Interconnection		
	Restricted	20,000	

100.	City of Worthington - Water System Interconnection		
	Restricted		20,000
101.	City of Wurtland - Water Storage Tank		
	Restricted	11,000	
102.	Greenup County - Fire Departments		
	Restricted	24,777	
Hancock County			
103.	Hancock County Fiscal Court - Lewisport Industrial Park Water Projects		
	Restricted	91,219	
Harlan County			
104.	Black Mountain Utility District - Putney - Totz/Water Line Extension		
	Restricted	1,250,000	
105.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant		
	Restricted	250,000	
106.	Black Mountain Utility District - Water Line Extension to Molus/Treatment Plant		
	Bond Fund		275,000
107.	Bledsoe Community Center - Construction of Building		
	Restricted		20,000
108.	Cawood Ledford Harlan County Boys and Girls Club		
	Restricted		250,000
109.	City of Benham - Purchase of Equipment for Water/Sewer Service and Fire Protection		
	Restricted		20,000
110.	City of Cumberland - Purchase or construction of a tourism Welcome and Information Center for the Appalachian Frontier Homestead		
	Restricted		25,000
111.	City of Evarts - Line Extension with Black Mountain Utility District		
	Restricted	800,000	
112.	City of Harlan - Downtown Revitalization Program		
	Restricted		100,000
113.	City of Harlan - Fire Station South		
	Restricted	100,000	
114.	City of Harlan - Little League		
	Restricted	5,000	
115.	City of Harlan - Water Treatment Plant		
	Restricted	500,000	
116.	City of Loyall - Equipment and Repair for Fire, Police, and Sewer Departments		
	Restricted		91,000
117.	City of Lynch - Water Line Upgrade		
	Restricted	300,000	
118.	City of Lynch - Water Line Upgrade		
	Bond Fund		316,027
119.	City of Wallins Creek - City Equipment Purchase		
	Restricted		20,000
120.	Cranks Volunteer Fire Department - Start-up Expenses		

	Restricted		15,000
121.	Evarts Train Depot - Renovation of Building		
	Restricted	50,000	
122.	Fire Department Equipment - Provide $7,500 for each of the following Volunteer Fire Departments - Holmes Mill, Yocum Creek, Lower Clover Fork, Bledsoe, Putney, Wallins, Coldiron, Sunshine, Martins Fork, Evarts, Loyall, Upper Cloverfork, and Benham		
	Restricted		91,000
123.	Green Hills Water District - Water Line to Little Shepard Trail		
	Bond Fund		125,000
124.	Green Hills Water District - Water Line to Little Shepard Trail		
	Restricted	35,500	
125.	Green Hills Water District - Water Tank Construction		
	Restricted	125,000	
126.	Harlan County Fiscal Court - Cloverfork Rescue Squad, Building Construction		
	Restricted		50,000
127.	Harlan County Fiscal Court - Provides $5,000 for each of the following rescue squads - Harlan and Tri-County		
	Restricted		10,000
128.	Harlan County Fiscal Court - Southeast Community College - Paramedic Training		
	Restricted	50,000	50,000
129.	Harlan County PVA - Digital/Mapping		
	Restricted	35,000	
130.	Harlan County/Tri-Cities - Coordination for Community Development		
	Restricted	35,000	35,000
131.	Southeast Community College Foundation - Mine Museum, Golf Course, and Mine Tour		
	Restricted	250,000	250,000
132.	Southeast Community College Foundation - Underground Mine Tour		
	Restricted	500,000	
133.	The Laurels, Inc. - Renovation		
	Restricted		40,000
Henderson County			
134.	Henderson County Water District - Fulton-Yates/Mt. Zion Church Road Loop Water Line		
	Restricted	125,000	
135.	Henderson County Water District - Posey-Ball Road Water Line		
	Restricted	121,381	
136.	Henderson County Water District - Tank Repair		
	Restricted	350,000	
137.	Henderson County Water District - Various Extensions		
	Restricted	230,000	
138.	Henderson County Water District - Water Line Extension to Kings Mill Road, Birk City Road, and Green River Road		
	Restricted	86,355	
139.	Henderson Water Utility - Interconnection with Evansville Water		

	Restricted	100,000	
Hopkins County			
140.	Adult Education Initiative		
	Restricted	100,000	100,000
141.	Hopkins County Fiscal Court - Economic Development - Spec Building		
	Restricted		400,000
142.	Hopkins County Fiscal Court - Economic Development Projects		
	Restricted		900,000
143.	Hopkins County Fiscal Court - Water Projects		
	Bond Fund		500,000
144.	Hopkins County Land Acquisition -Economic Development		
	Restricted	1,000,000	500,000
145.	Hopkins Volunteer Fire Departments - ($10,000 each to Anton, Charleston, Dawson Springs, Earlington, Grapevine, Hanson, Manitou, Mortons Gap, Nebo, Nortonville, Richland, St. Charles, South Hopkins, and White Plains for Purchase of Fire Fighting Equipment		
	Restricted	140,000	
Jackson County			
146.	Jackson County Fiscal Court - Buncomb Road Water Line		
	Restricted	146,242	
147.	Jackson County Water Association - Water Supply Lake		
	Bond Fund		88,256
148.	Jackson County Water Association - Water Supply Lake		
	Restricted	100,000	
Johnson County			
149.	City of Paintsville - Business/Technical/Incubator		
	Restricted	300,000	
150.	Johnson County Fiscal Court - Fire Departments		
	Restricted	35,000	35,000
151.	Paintsville Utility Commission - Extensions in Scattered Locations		
	Restricted	344,701	
152.	Paintsville Utility Commission - Extensions in Scattered Locations		
	Bond Fund		268,734
153.	Paintsville Utility Commission - New Water Treatment Plant		
	Restricted	20,757	
Knott County			
154.	Kentucky School of Craft - KCTCS - Operating		
	Restricted		500,000
155.	Knott County Artisans Center - Construction		
	Restricted	835,987	800,000
156.	Knott County Fiscal Court - Beaver Park Expansions		
	Restricted	100,000	
157.	Knott County Fiscal Court - Fire Departments		
	Restricted	100,000	50,000
158.	Knott County Fiscal Court - Jail		
	Restricted	600,000	600,000
159.	Knott County Fiscal Court - Youth Development Center		
	Restricted	100,000	

160.	Knott County/City of Hazard -Water Line Extension		
	Restricted	661,746	
161.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Restricted	3,348,903	
162.	Southern Water and Sewer District - Water Line Extension on Right Beaver Creek		
	Bond Fund		674,090
Knox County			
163.	Barbourville Utility Commission - Middlefork and Right Baker Hollow Water Lines		
	Restricted		45,000
164.	Barbourville Utility Commission - Water Tank and Pump Station HWY 229		
	Restricted	175,000	
165.	Cranes Nest Waterlines		
	Bond Fund		5,000
166.	Knox County Fiscal Court - Bennett Branch Water Lines		
	Bond Fund		5,000
167.	Knox County Fiscal Court - Big Creek Water Tank - HWY 718		
	Bond Fund		100,000
168.	Knox County Fiscal Court - Brices Creek Waterlines		
	Bond Fund		5,000
169.	Knox County Fiscal Court - Coles Branch Waterlines		
	Bond Fund		8,000
170.	Knox County Fiscal Court - Don Mills Road Waterlines		
	Bond Fund		2,000
171.	Knox County Fiscal Court - Dora Clark Branch Waterlines		
	Bond Fund		8,000
172.	Knox County Fiscal Court - Dowis Chappel Oak Ridge Road Water Lines		
	Bond Fund		15,000
173.	Knox County Fiscal Court - George Tye Road Water Lines		
	Bond Fund		5,000
174.	Knox County Fiscal Court - Goodin Creek Water Lines		
	Bond Fund		5,000
175.	Knox County Fiscal Court - Hinkel Branch Waterlines		
	Bond Fund		2,000
176.	Knox County Fiscal Court - Houston Broughton Road Waterlines		
	Bond Fund		8,000
177.	Knox County Fiscal Court - Left Fork Miller Hollow Water Lines		
	Bond Fund		1,000
178.	Knox County Fiscal Court - Mills Creek Waterlines		
	Bond Fund		8,000
179.	Knox County Fiscal Court - Right Fork Miller Hollow Water Lines		
	Bond Fund		1,000
180.	Knox County Fiscal Court - Rob Smith Road Waterlines		
	Bond Fund		2,000
181.	Knox County Fiscal Court - Salt Gum Waterlines		
	Bond Fund		8,000

182.	Knox County Fiscal Court - Turkey Fork Waterlines		
	Bond Fund		8,000
183.	Southeast Ky. Rehabilitation Industries (SEKRI) - Renovation of Warner Building		
	Restricted	330,189	
Laurel County			
184.	Wood Creek Water District - Water Tank and Pump Station		
	Bond Fund		111,800
185.	Wood Creek Water District - Water Tank and Pump Station		
	Restricted	105,943	
Lawrence County			
186.	Big Sandy Water District - Interconnection		
	Bond Fund		196,540
187.	City of Louisa Water Project - Water System Improvements		
	Restricted	391,520	
188.	Lawrence County Board of Education - Community Wellness Center		
	Restricted	50,000	50,000
189.	Lawrence County Fiscal Court - Community Center		
	Restricted	200,000	
190.	Lawrence County Volunteer Fire Departments		
	Restricted	10,078	45,922
Lee County			
191.	City of Beattyville - Water Line Extension		
	Restricted	669,775	
192.	Lee County Fiscal Court - Library Renovation at Old Jail		
	Restricted	150,000	
193.	Lee County Fiscal Court - Renovate Ambulance Building		
	Restricted		50,000
194.	Lee County Fiscal Court - Sewer Expansion to Happy Top		
	Restricted		50,000
195.	Lee County Fiscal Court - Various Community Development Programs		
	Restricted		200,000
Leslie County			
196.	Leslie County - Campus of Hazard Community College		
	Restricted		500,000
197.	Leslie County Fiscal Court - Coon Creek Fire Department		
	Restricted		10,000
198.	Leslie County Fiscal Court - Cutshin Fire Department		
	Restricted		10,000
199.	Leslie County Fiscal Court - E911 Equipment and Operations		
	Restricted		500,000
200.	Leslie County Fiscal Court - Funds to be divided equally among six local Volunteer Fire Departments		
	Restricted	150,000	
201.	Leslie County Fiscal Court - George Wooten Park		
	Restricted		5,000
202.	Leslie County Fiscal Court - Greasy Creek Park		
	Restricted		5,000

203.	Leslie County Fiscal Court - Grover Sizemore Park		
	Restricted		5,000
204.	Leslie County Fiscal Court - Hyden Fire Department		
	Restricted		10,000
205.	Leslie County Fiscal Court - Jail Improvements		
	Restricted		250,000
206.	Leslie County Fiscal Court - Leslie County Little League		
	Restricted		20,000
207.	Leslie County Fiscal Court - Pines Park		
	Restricted		5,000
208.	Leslie County Fiscal Court - Stinnett Area Community Center		
	Restricted		450,000
209.	Leslie County Fiscal Court - Stinnett Fire Department		
	Restricted		10,000
210.	Leslie County Fiscal Court - Thousandsticks Fire Department		
	Restricted		10,000
211.	Leslie County Fiscal Court - Transportation Improvements		
	Restricted		286,000
212.	Leslie County Fiscal Court - Wooton Fire Department		
	Restricted		10,000
213.	Leslie County Water District - Water Line Extension		
	Restricted	650,000	
214.	Leslie County Water District - Water Line Extension		
	Restricted	659,933	
215.	Leslie County Water District - Water Line Extension		
	Restricted	250,000	
216.	Leslie County Water District - Water Line Extension		
	Restricted	500,000	
217.	Leslie County Water District - Water Line Extension		
	Restricted	350,000	
218.	Leslie County Water District - Water Line Extension and System Telemetry		
	Restricted	1,030,000	
Letcher County			
219.	City of Fleming-Neon - Water Line Extension		
	Restricted	590,000	
220.	City of Jenkins - City Hall Expansion		
	Restricted	85,346	74,654
221.	City of Jenkins - Downtown Revitalization		
	Restricted		120,000
222.	City of Jenkins - Mountain Water District - Water Line Extension		
	Restricted	450,000	
223.	City of Jenkins - Water Line Extension		
	Restricted	223,466	
224.	Letcher County - Provide funds to be shared equally among 10 Volunteer Fire Departments		
	Restricted	200,000	
225.	Letcher County Board of Education - Central High School Project		
	Restricted	200,000	

226.	Letcher County Board of Education - Fleming - Neon High School		
	Restricted	100,000	
227.	Letcher County Domestic Violence Council		
	Restricted	100,000	
228.	Letcher County Expansion of Senior Citizens Centers		
	Restricted		100,000
229.	Letcher County Fiscal Court - Eola Recreation Center		
	Restricted	15,000	
230.	Letcher County Fiscal Court - Esta Craft Conway Spouse Abuse Center in Whitesburg		
	Restricted		50,000
231.	Letcher County Fiscal Court - Landfill Closure		
	Restricted		500,000
232.	Letcher County Fiscal Court - Letcher County Medical Evacuation Helicopter / Office and Dorm at Whitesburg Appalachian Regional Hospital.		
	Restricted	250,000	
233.	Letcher County Fiscal Court - Whitesburg Recreation Center		
	Restricted	35,000	
234.	Letcher County Fiscal Court - Whitesburg Water Line Extension to Dry Fork and Uz		
	Restricted	160,000	
235.	Letcher County Parks and Recreation - Jenkins Baseball Park		
	Restricted	100,000	
236.	Letcher County Parks and Recreation - Various Parks in Letcher County		
	Restricted	20,000	
237.	Letcher County Water and Sewer District -Water Line Extension (Routes 7 and 317)		
	Bond Fund		331,214
238.	Letcher County Water and Sewer District -Water Line Extension (Routes 7 and 317)		
	Restricted	1,970,073	
239.	New Fire Department Headquarters -Jenkins		
	Restricted		30,000
Magoffin County			
240.	Magoffin County Fiscal Court - Administrative Office Building		
	Restricted	600,000	
241.	Magoffin County Fiscal Court - Fire Departments		
	Restricted	100,000	
242.	Magoffin County Rescue For Purchase of Truck		
	Restricted	50,000	
243.	Magoffin County Water District - Paintsville New Treatment Plant		
	Restricted	812,046	
244.	Magoffin County Water District - Paintsville New Treatment Plant		
	Bond Fund		187,954
245.	Magoffin County Water District - Water Line Extensions		
	Restricted	405,000	
246.	Royallton Fire Department		
	Restricted	10,000	

247.	Salyersville Fire Department Restricted	10,000	
Martin County			
248.	City of Warfield - Community Center Restricted	25,000	
249.	Martin County Fiscal Court - Fire Department/Rescue Squad - Equipment and Fire House Improvements Restricted	75,000	
250.	Martin County Fiscal Court - Martin County Health Care Clinic Restricted		400,000
251.	Martin County Senior Citizens Center - Equipment Restricted	20,000	
252.	Martin County Sheriff's Office - Equipment Restricted	22,000	
253.	Martin County Volunteer Fire Departments Restricted	28,000	
254.	Martin County Water District - Eastern Area Water Line Extensions Restricted	470,034	
255.	Martin County Water District - Side Hollow Water Line Extensions Restricted	1,033,289	
256.	Martin County Water District - Upgrade/Expansion Water Treatment Plant Restricted	3,122,831	
257.	Martin Fiscal Court - Emergency Management - Enhanced 911/GIS Restricted	100,000	
258.	Roy F. Collier Community Center - Furnishings and Equipment Restricted	500,000	
McCreary County			
259.	McCreary County Water District - Water Line Extensions Restricted	403,981	
260.	McCreary County Water District - Water Line Extensions Bond Fund		46,019
McLean County			
261.	McLean County Fiscal Court - City of Island Water Department - Debt Service on 10" Line Restricted	70,000	
262.	McLean County Fiscal Court - City of Sacramento - Water System Improvements Bond Fund		50,000
263.	McLean County Fiscal Court - Extension of Water Lines at Pone River Bond Fund		30,000
264.	McLean County Fiscal Court - Extension of Water Lines at Pone River Restricted	20,000	
265.	McLean County Fiscal Court - Fire Departments Restricted	80,000	
266.	McLean County Fiscal Court - Fire/Rescue Equipment or Vehicle Restricted		50,000
267.	McLean County Fiscal Court - High Speed Data/E-Government Restricted	30,000	

268.	McLean County Fiscal Court - Rumsey Sewer		
	Bond Fund		50,000
269.	McLean County Fiscal Court - Rumsey Sewer		
	Restricted	200,000	
270.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Bond Fund		60,000
271.	McLean County Fiscal Court - Water Line Improvements and Fire Hydrants		
	Restricted	60,000	
Menifee County			
272.	Cave Run Water Commission - Water Plant		
	Restricted	237,702	
273.	Menifee County Youth Center		
	Restricted	50,000	
274.	Menifee Fire Departments		
	Restricted	40,000	
275.	Walking Trail Park		
	Restricted	40,000	
Morgan County			
276.	Morgan County Fiscal Court - ($10,000 Grant to Each of the Six Local Volunteer Fire Departments)		
	Restricted	60,000	
277.	Morgan County Fiscal Court - Development of Park at the Mouth of Caney Creek		
	Restricted	50,000	
278.	Morgan County Fiscal Court - Industrial Road Development - Spec Building Construction and Industrial Site Development		
	Restricted	750,000	
279.	Morgan County Fiscal Court - Morgan County Memory Hill		
	Restricted	10,000	
Muhlenberg County			
280.	Muhlenberg County Fiscal Court - Adult Education Initiative		
	Restricted	100,000	
281.	Muhlenberg County Fiscal Court Purchase Eight Thermal Imaging Devices, One for Each Fire Department (Central City, Bremen, Graham, Greenville, Dunmore, Beechmont, Drakesboro, and Nelson)		
	Restricted	80,000	
Ohio County			
282.	Ohio County Fiscal Court - Bluegrass Memorial/Music		
	Restricted	234,517	64,640
283.	Ohio County Water District - Transmission Main		
	Restricted	232,260	
284.	Ohio County Water District - Transmission Main		
	Bond Fund		232,260
Owsley County			
285.	Owsley County Fiscal Court - Booneville Volunteer Fire Department - Fire Truck		
	Restricted	50,000	

286.	Owsley County Fiscal Court - Economic Development Initiatives		
	Restricted		150,000
287.	Owsley County Fiscal Court - Vincent/Island City Volunteer Fire Department		
	Restricted	50,000	
Perry County			
288.	City of Hazard - Robinson - Rowdy Water Line		
	Restricted	1,099,134	
289.	City of Hazard - South Perry County Water Line		
	Restricted	769,702	
290.	City of Hazard - South Perry County Water Line		
	Bond Fund		1,280,800
291.	Hazard Community College		
	Restricted	88,605	
Pike County			
292.	Breaks Interstate Park - Improvement Project		
	Restricted		1,000,000
293.	City of Elkhorn City - Water Line Extension		
	Bond Fund		363,204
294.	City of Pikeville - Underground Utilities		
	Restricted	1,000,000	
295.	East Kentucky Exposition Center - Facility Construction		
	Restricted	2,000,000	
296.	East Kentucky Exposition Center - Operations		
	Restricted	150,000	250,000
297.	Elkhorn City - Construction of Fair Grounds		
	Restricted	50,000	
298.	Fishtrap State Park - Expansion Project		
	Restricted	431,226	1,228,774
299.	Mountain Water District - Chloe - Shelbianna Connector		
	Restricted	197,000	
300.	Mountain Water District - Feds Creek Extension		
	Restricted	911,747	
301.	Mountain Water District - Fords Mountain Connector		
	Bond Fund		366,000
302.	Mountain Water District - Lower Shelby Valley Sewer Project		
	Restricted	800,000	
303.	Mountain Water District - Phelps Water Line Extensions		
	Restricted	151,000	
304.	Pike County Fiscal Court - Blackberry Senior Citizens Center		
	Restricted	100,000	
305.	Pike County Fiscal Court - Chisholm Park Project Feasibility Study		
	Restricted	100,000	100,000
306.	Pike County Fiscal Court - City of Phelps - Phelps area Habitat for Humanity		
	Restricted		100,000
307.	Pike County Fiscal Court - Construction of New Fire Station at Island Creek		
	Restricted	50,000	
308.	Pike County Fiscal Court - Construction of New Fire Station at Virgie		
	Restricted	50,000	

309.	Pike County Fiscal Court - Construction on Feds Creek Fire Department			
		Restricted		50,000
310.	Pike County Fiscal Court - Dorton Community Park			
		Restricted	50,000	
311.	Pike County Fiscal Court - Drug Rehabilitation Center Feasibility Study			
		Restricted	50,000	
312.	Pike County Fiscal Court - Elkhorn City Heritage County Operations and Project Development - Black Gem Park - Belfry			
		Restricted	10,000	30,000
313.	Pike County Fiscal Court - For Hope, Inc. - to be divided equally among three Centers			
		Restricted	60,000	
314.	Pike County Fiscal Court - Freeburn Park Project			
		Restricted	50,000	
315.	Pike County Fiscal Court - Hope Incorporated - Phelps - for new vehicle purchase.			
		Restricted		60,000
316.	Pike County Fiscal Court - KY Appalachian Center Project			
		Restricted	50,000	
317.	Pike County Fiscal Court - Long Fork Community Park at Virgie, KY			
		Restricted	50,000	
318.	Pike County Fiscal Court - Majestic Community Park			
		Restricted	25,000	
319.	Pike County Fiscal Court - Mountain Water District - 50 New Fire Hydrants			
		Restricted	81,500	
320.	Pike County Fiscal Court - To be divided equally among all Pike County Fire Departments			
		Restricted	100,000	
321.	Pike County Fiscal Court - To be divided equally among all Senior Citizens Centers			
		Restricted	100,000	
322.	Pikeville Water Department - Water Treatment Improvements			
		Restricted	174,000	
Union County				
323.	City of Morganfield - Raw Water Main			
		Restricted	1,000,000	
324.	Union County - City of Morganfield - Morganfield Pedestrian Destination: Land Acquisition, Site Development, and Professional Services			
		Restricted	371,500	
325.	Union County - City of Sturgis - Purchase Property and Building, Renovation, and Construction			
		Restricted	100,000	
326.	Union County - Flood Plain Study			
		Restricted	60,000	
327.	Union County Fiscal Court - Sewer Line			
		Bond Fund		1,000,000
328.	Union County Water District - Water Line Extension			
		Restricted	50,000	
329.	Uniontown Sewer Facility			
		Restricted	150,000	

Webster County			
330.	Sebree South Industrial Park - Sewer Line Extension		
	Restricted	800,000	
331.	Webster County Water District - Water Line Extensions		
	Restricted	600,000	
332.	Webster County Water District - Water Tank		
	Restricted	500,000	
Whitley County			
333.	City of Corbin - Incline Road Water Line Extension		
	Restricted	179,098	
334.	Whitley County Fiscal Court - Animal Shelter		
	Restricted	50,000	
335.	Whitley County Fiscal Court - County Water Line Extensions		
	Bond Fund		221,800
336.	Whitley County Fiscal Court - Trenching and Sewer Cleaning Machines		
	Bond Fund		80,000
337.	Whitley County Library Board - Book Refurbishing and Replacement		
	Restricted	50,000	
338.	Whitley County Senior Citizens Center		
	Restricted	96,000	
339.	Whitley County Water District - Nevisdale Water Line Extensions		
	Restricted	170,730	
Wolfe County			
340.	City of Campton - Water Line Extension		
	Bond Fund		217,673
341.	Hazel Green Fire Truck Purchase		
	Restricted	158,000	

CAPITAL PROJECTS BUDGET PROVISIONS FOR PART II, CAPITAL PROJECTS

1. All appropriations to existing line-item capital construction projects expire on June 30, 2002, unless reauthorized in this Act with the following exceptions: (1) A construction contract for the project shall have been awarded by June 30, 2002; (2) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties; and (4) Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), unless expressly reauthorized or reallotted in this Act. Any capital construction project authorized pursuant to actions approved by the 2000 General Assembly House Bill 507 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects or S. Coal Severance Tax Projects), that is not expressly reauthorized or reallotted in this Act is deemed to be reauthorized. Notwithstanding the criteria set forth in this section, the disposition of 2000-2002 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d) with the exception of the Cabinet for Families and Children. To facilitate the transfer of five buildings from the Cabinet for Families and Children to the Finance and Administration Cabinet, it is the intent of the General Assembly that any remaining balance in any currently authorized Cabinet for Families and Children non-bond funded project be credited to the Finance and Administration Cabinet Maintenance Pool. Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 2002.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. The full amount of annualized debt service has been included at the beginning of fiscal year 2003-2004. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 2003.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Notwithstanding KRS 45.750 to 45.810, the General Assembly has determined that certain individual capital projects identified in this Act as eligible for funding from the Emergency Repair, Maintenance, and Replacement Fund, the Capital

Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund require a direct appropriation from the Emergency Repair, Maintenance, and Replacement Fund, the Capital Construction and Equipment Purchase Contingency Fund, or the Deferred Maintenance Fund in this Act.

5. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below $5,000,000 in fiscal year 2002-2003, any debt service lapse necessary to bring the fund balance to $5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. If the Emergency Repair, Maintenance, and Replacement Fund remains at $5,000,000 or above, the first $2,000,000 in fiscal year 2002-2003 in debt service lapse shall be deposited to the General Fund Surplus Account for the purpose of paying unbudgeted Necessary Government Expenses. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, Deferred Maintenance Pool Account, or the General Fund Surplus Account shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other parts of this Act.

6. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction and Equipment Purchase Contingency Account established in KRS 45.770.

7. The Council on Postsecondary Education subheading in this Part includes a project entitled Fire/ Life Safety/ Infrastructure-Agency Bond Pool, L.1.a.. Agency Bonds, $80,000,000 in projects are authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 2002-2004 biennium.

Notwithstanding KRS 45.750 to 45.810, 45.812, 45.814, 45.816, and 45.818, capital construction projects at institutions of postsecondary education involving no state or Federal Funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

8. The Research Challenge Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.c.) shall be transferred to the Research Challenge Trust Fund as established in KRS 164.7911 and 164.7917.

9. The Regional University Excellence Trust Fund-Endowment Match capital project appropriation under the Council on Postsecondary Education (L.1.d.) shall be transferred to the Regional University Excellence Trust Fund as established in KRS 164.7911 and 164.7919.

10. Notwithstanding 2000 Ky. Acts ch. 549, Capital Projects Budget Provisions for Part II, Capital Projects, 10., pertaining to the Capital Renewal and Maintenance Pool, the matching requirement is extended until June 30, 2004. Each postsecondary education institution may access any unmatched funds allocated from the Capital Renewal and Maintenance Pool to that institution after entering into an agreement with the Council on Postsecondary Education agreeing to fulfill the matching requirement by June 30, 2004. The Council on Postsecondary Education shall develop guidelines for the agreements.

11. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

12. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects Pool, Repair of State-Owned Dams, Land Acquisition, Property Demolition, Guaranteed Energy Savings projects, Purchase of Agricultural Conservation Easements (PACE), Wetland and Stream Mitigation, Phase I Tobacco Settlement Agricultural Development Initiative, Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool, Infrastructure projects, Employment Services facilities projects authorized in this part of this Act, Asbestos Abatement projects, Technology Trust Fund projects, systems, initiatives, and the Council on Postsecondary Education Agency Bond Pool and Capital Renewal and Maintenance Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

13. Notwithstanding KRS 42.560 or any other statute or provision of law to the contrary, all undisbursed funds in the Energy Assistance Trust Fund, the expenditure authority for which expired February 19, 1998, are hereby transferred and appropriated to the Energy Efficiency in State Government Buildings Revolving Loan Fund, contingent upon passage of enabling legislation. These funds represent receipts and accumulated interest thereon from the Stripper Well Settlement Agreement under the U.S. Department of Energy Stripper Well Exemption Litigation, as provided in KRS 42.560 to 42.566. These funds are appropriated as Restricted Funds in the Finance and Administration Cabinet's Capital Budget.

14. Notwithstanding KRS 154.33-600 to 154.33-609 or any other statute or provision of law to the contrary, all moneys appropriated by the 1998 General Assembly and added to or reauthorized by the 2000 General Assembly for the Red Fox golf course are hereby reauthorized and reallocated to a new entity entitled "The Perry/Knott County Recreational Authority" (PKCRA) with the following exception: the $700,000 originally appropriated by the 1998 General Assembly from the Letcher County/Single County Coal Severance tax money is hereby directed to be returned to Letcher County. The balance of funds remaining in the heretofore entitled Red Fox/Carr Fork golf course project are authorized to be directed to a public recreational project or projects including but not limited to a public golf course at a site or sites to be determined by the Authority. The recreational project or projects supported by these funds shall be administered through a new bi-county cooperative authority comprised of one member from each of Knott and Perry Counties who shall be appointed by the respective County Judge/Executive and three members who shall be appointed by the Governor. The new five member Board of the Authority shall develop, operate, and manage the project. This authorization shall supersede any previous authorization by the General Assembly and any memorandum of agreement or understanding that has been entered into among the Commonwealth, Perry, Knott, and Letcher counties.

15. The appropriation by the 2000 General Assembly in the amount of $2,000,000 in Bond Funds for fiscal year 2001-2002 (2000 Ky. Acts ch. 549, Part II, R. Community Development Projects, 1. Finance and Administration Cabinet, number 661, Aquaculture Infrastructure Components), in accordance with the provisions of Capital Projects Budget Provisions for Part II, Capital Projects, 4., of this Act, is reauthorized and reallocated in fiscal year 2002-2003 to be appropriated to Kentucky State University as follows: $600,000 to the Purchase Area Aquaculture Cooperative of which $450,000 is to be used for operating costs on the existing facility, education, initiatives to promote marketing and quality control, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Purchase Area Aquaculture Cooperative and the remaining $150,000 is to be used to complete the Pond Cost Share Program for farmers that were deemed qualified but due to rankings did not get funded; $900,000 to the Kentucky State University Aquaculture Program of which $800,000 is to be used for shrimp research and development, and the remaining $100,000 is to be used for bass research and development; $400,000 to the Montgomery County Aquaculture Cooperative, to be spent on the purchase and installation of aquaculture processing equipment, education, and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Montgomery County Aquaculture Cooperative; and $100,000 to the Thoroughbred Shrimp Company in Franklin County for support and enhancement of its shrimp hatchery operations, including the purchase and installation of equipment and other expenditures deemed appropriate under the Cooperative Agreement between Kentucky State University and the Thoroughbred Shrimp Company in Franklin County.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2002-2003 or fiscal year 2003-2004, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and

procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2002-2003 or fiscal year 2003-2004, respectively, then the appropriation increase may be approved. In the event that the review contemplated in this section indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for any variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2002-2004 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) On or before the beginning of each fiscal year; (2) On or before October 1; (3) On or before January 1; and (4) On or before April 1.

3. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

5. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

6. A state agency entitled to Federal Funds which would represent 100 percent of the cost of a program shall conform to KRS 48.730.

7. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2002, and nothing in this Act is to be construed as

amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2003 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended Legislative Budget as enacted by the 2002 Regular Session of the General Assembly and the recommended State/Executive Budget and Judicial Budget as enacted by the 2003 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2002-2004 biennium, and based upon supporting documentation and legislative records as considered by the 2002 Regular Session of the General Assembly, the 2003 Regular Session of the General Assembly, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required for meeting lease-rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

17. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in an Act of the 2002 Regular Session of the General Assembly or another Act of the 2003 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2001 Regular Session to sine die adjournment of the 2002 Regular Session was not confirmed by the 2002 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2001-2002 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2002 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

18. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System shall be as follows: the General Assembly has determined that the employer contribution rate for the Kentucky Employees Retirement System for fiscal year 2002-2003 shall take appropriate notice of the additional revenues credited to the system as a result of the Anthem Blue Cross Blue Shield demutualization agreement. Therefore, from July 1, 2002, through June 30, 2003, the contribution rates shall be no more than three and seventy-six hundredths percent for nonhazardous duty employees, 17.6 percent for hazardous duty employees, and 17.37 percent for employees of the State Police Retirement System. From July 1, 2003, through June 30, 2004, the employer contribution rate shall be no more than five and eighty-nine hundredths percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System.

19. By August 15, 2003, the Finance and Administration Cabinet, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

20. By October 15, 2003, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

21. Any appropriation item and sum in Part I to Part XI of this Act and in an appropriation provision in another Act of the 2002 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

22. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

23. Appropriation items and sums in Part I to Part XI of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

24. For fiscal year 2002-2003 and fiscal year 2003-2004, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the Affordable Housing Trust Fund established by KRS 198A.710.

25. The Technology Trust Fund is the Technology Trust Fund established by 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Empower Kentucky Steering Committee. However, notwithstanding KRS 45.760(14), 45.770, 45.780, and 45.800, no funds from the Emergency Repair, Maintenance, and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

26. The General Assembly acknowledges that during fiscal year 2000-2001 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 01-01 and General Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts chs. 544, 545, and 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium General Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriations levels for budget units of the Executive Branch contained in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04, and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 02-01, General Fund Budget Reduction Order 02-02, General Fund Budget Reduction Order 02-03, and General Fund Budget Reduction Order 02-04.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2000-2001 in 2000 Ky. Acts ch. 549, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding the provisions of KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 01-01 and Road Fund Budget Reduction Order 01-02.

The General Assembly acknowledges that during fiscal year 2001-2002 the Road Fund revenues were less than the enacted estimates in accordance with KRS 48.120(3) and that the 2000 General Assembly had enacted the branch budget bills in 2000 Ky. Acts ch. 549 as contained in KRS Chapter 47 based upon the anticipated revenue estimates.

The 2000 General Assembly enacted the 2000-2002 biennium Road Fund Budget Reduction Plan for fiscal year 2001-2002 in 2000 Ky. Acts ch. 549, Part VII, for state government in accordance with KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriations levels for budget units of the Executive Branch contained in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02, and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 02-01 and Road Fund Budget Reduction Order 02-02.

27. Notwithstanding KRS 138.510, tracks with an average daily handle of $1,200,000 or more shall be allowed a tax credit equal to $12,000 multiplied by the number of racing days at the track for the fiscal year beginning after June 30, 2003, and ending June 30, 2004, if an amount equal to at least 50 percent of the credit is used for capital improvements and at least 50 percent is used for horsemen's incentives. "Capital improvement" means any addition, replacement, or remodeling of a structural unit of the track, including but not limited to the construction of barns used for the track, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator or equipment, new access roads, new parking facilities, the reconstruction, reshaping, or leveling of the racetrack, the installation of permanent new heating or air conditioning, and installations of a permanent nature forming part of the track structure. Fifty percent of the amount of the tax credit for the horsemen's incentives shall be allocated to purses at the track and 50 percent allocated for stabling and transportation costs. The method of dispersal of the stabling and transportation costs shall be agreed upon by the track receiving the tax credit and the horsemen's group or groups contracting with the track. If a track fails to complete a qualifying capital improvement or make qualifying expenditures for horsemen's incentives, the Kentucky Economic Development Finance Authority as created under KRS 154.20-010 shall order the track to repay to the state all or any portion of the amount of the tax credit received by the track. The track receiving the credit shall report quarterly to the Interim Joint Committee on Appropriations and Revenue on the amounts of qualifying capital improvements and expenditures for horsemen's incentives made for which the credit is claimed.

28. Notwithstanding KRS 138.510, for fiscal year 2003-2004, all harness racetracks licensed by the Kentucky Racing Commission shall not be required to pay the excise tax imposed under KRS 138.510(2) and that amount that would have been paid shall be retained by the track to promote and maintain its facilities and its live meet.

29. Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

30. Notwithstanding KRS 97.035(1), (2), and (3), when a city of the first class and a county containing a city of the first class have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Notwithstanding KRS 97.035(1), (2), and (3), any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under KRS 97.035 may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county.

31. As provided in Part V, Funds Transfer, of this Act, any funds remaining in flexible spending accounts of employees of local districts for calendar year 2002 and calendar year 2003 shall also be transferred to the credit of the General Fund.

32. Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

(a) Maintain records relating to these sales to assist in the collection of the use tax owed; and

(b) File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

33. Notwithstanding KRS 154A.130(3) and (4), all net lottery revenues in excess of the amount appropriated in Part I of this Act shall be retained in the General Fund.

34. Notwithstanding KRS 48.705(2)(a), within 30 days of the end of fiscal year 2002-2003, the Secretary of the Finance and Administration Cabinet shall cause to be deposited to the Budget Reserve Trust Fund Account 100 percent of all General Fund revenue receipts in excess of the revenue estimates determined under KRS 48.120(3), or the amount subsequently certified by the State Budget Director pursuant to KRS 48.400(3) for the fiscal year just ended, and 100 percent of the unexpended balance of all General Fund appropriations for the fiscal year just ended that would otherwise lapse to the General Fund Surplus Account under KRS 45.229.

35. Notwithstanding KRS 248.654, all Master Settlement Agreement - Phase I payments in excess of the amounts appropriated in Part I of this Act shall be retained in the General Fund.

36. a. Notwithstanding KRS 18A.115, the Secretary of the Personnel Cabinet shall not approve any additional

principal assistants or deputies above the number employed on December 1, 1995.

b. Effective June 30, 2003, the number of principal assistants shall not exceed the number employed on December 1, 1995.

c. Effective December 1, 2003, the number of unclassified employees shall be 100 fewer than the number employed on July 1, 2002.

d. Notwithstanding KRS 12.027 and 12.028, no Executive Order shall create any additional unclassified positions.

e. The Personnel Cabinet shall monitor the number of total employees in the Executive Branch and report to the Interim Joint Committee on Appropriations and Revenue on a monthly basis regarding the targeted reduction of 1,000 employees from the state workforce by December 13, 2003, as set forth in Executive Order 2002-1334.

37. a. The Finance and Administration Cabinet shall report to the Interim Joint Committee on Appropriations and Revenue on a monthly basis regarding the number and encumbered dollar amounts of personal service contracts approved for Executive Branch agencies. For fiscal year 2002-2003, the moratorium as set forth in Executive Order 2002-1334 shall remain in effect. For fiscal year 2003-2004, the total amount of funds encumbered shall not exceed the total expended in fiscal year 2002-2003, less $75,000,000. This maximum shall not be exceeded unless the Secretary of the Finance and Administration Cabinet notifies the Interim Joint Committee on Appropriations and Revenue of the specific reason for public health or safety, legal defense, or other extraordinary circumstances.

b. The Secretary of the Finance and Administration Cabinet shall implement such actions as necessary to reduce the number of sole source contracts and require open competition for all personal service contracts, carefully scrutinize the necessity for all contracts to ensure that services cannot be provided by existing agency staff, and develop a process to evaluate the effectiveness of each contract as to performance and delivery of services. Open competition shall include a reasonable time for bids to be submitted and documentation on how the contract price was determined.

38. Except in the case of a declared emergency, the Governor and all other constitutional officers shall not encumber more than 60 percent of the funds appropriated in this Act during the first half of fiscal year 2003-2004.

39. a. The Transportation Cabinet shall downsize the State Motor Vehicle Fleet by 500 vehicles as set forth in Executive Order 2002-1334. In addition, the Secretary of the Finance and Administration Cabinet and the Secretary of the Transportation Cabinet shall restrict permanently assigned vehicles to only law enforcement or other public safety purposes.

b. The Finance and Administration Cabinet shall continue actions set forth in Executive Order 2002-1334 to reduce energy costs.

c. All state agencies shall continue to monitor all travel expenditures as set forth in Executive Order 2002-1334. In addition, all state agencies shall utilize state parks or other state facilities to the fullest extent feasible.

d. All state agencies shall continue to adhere to printing guidelines as set forth in Executive Order 2002-1334.

40. Notwithstanding KRS 56.803, 56.813, and 56.823, no state agency shall request any new lease space unless a lower annual cost, including utilities, can be documented. No additional space or lease improvements shall be approved.

41. a. Notwithstanding KRS 45.760(12) and (14), no state agency shall purchase new equipment or furniture unless the item must be replaced due to damage or loss, unless the Secretary of the Finance and Administration Cabinet approves the equipment or furniture purchase based on documentation of the necessity and impact on government services if the purchase is not made. If a purchase is authorized, the Division of Correctional Industries or the Division of Surplus Property shall be utilized whenever possible.

b. Any equipment or furniture purchase approved by the Secretary of the Finance and Administration Cabinet in excess of $5,000 shall be reported to the Interim Joint Committee on Appropriations and Revenue.

42. The Secretary of the Finance and Administration Cabinet shall direct all state agencies to review all discretionary expenditures, including but not limited to telecommunications (including cellular telephones and other wireless devices), supplies, commodities, dues, and subscriptions, and implement cost savings actions as may be warranted.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 2002-2004 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2002-2004 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 2002, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Notwithstanding KRS 18A.355(1) and 151B.035, a cost-of-living adjustment amounting to an annualized value of $1,080 is provided in fiscal year 2003-2004 on the base salary or wages of each eligible state employee on their anniversary date. Commencing with an eligible employee's anniversary date, the cost-of-living adjustment shall be disbursed by payroll period in a one-twenty-fourth installment for the duration of the employment. The cost-of-living adjustment shall be part of the salary or compensation base of the employee.

There is appropriated from the General Fund in fiscal year 2003-2004 $11,200,000 to the State Salary Compensation Fund in the Personnel Cabinet. The Secretary of the Personnel Cabinet, in consultation with the State Budget Director, shall determine the amount of the funds necessary by budget unit to provide for this cost-of-living adjustment. The Secretary of the Personnel Cabinet, in consultation with the State Budget Director, shall determine the pro rata amount of the cost-of-living adjustment to be provided to permanent part-time employees. The State Salary Compensation Fund shall be supplemented by Restricted Agency Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies in order to provide for this cost-of-living adjustment.

The Secretary of the Personnel Cabinet, upon approval by the State Budget Director, shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund from the State Salary Compensation Fund to transfer to each affected budget unit and such funds shall be transferred. The Secretary of the Personnel Cabinet and the State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue regarding the implementation of this provision on a timely basis.

4. Each budget unit with an authorized personnel complement in excess of the number of positions funded in this Act shall submit a plan to the Office of State Budget Director for approval identifying any adequate appropriate funding source prior to filling any positions above the funded number. Upon approval of the State Budget Director, the agency budget may fill the authorized number of positions.

5. a. For purposes of this section:

(1) "Appointing authority" means the agency head as defined in KRS 18A.005(1) and 151B.010(1);

(2) A "furlough" or "reduction in hours" means that an appointing authority may temporarily reduce the number of hours that an employee is scheduled to work within a pay period if the Budget Reduction Plan or cost savings contemplated in this Act are not achieved. In the case of an employee who is considered "salaried" or "exempt" from the coverage of the Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq., the length of a furlough shall not be less than a work week;

(3) A "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations; and

(4) A "lack of work" means an operating authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels.

b. Notwithstanding any other provision of law, an appointing authority, with the approval of the Secretary of the Personnel Cabinet or, in the case of employees governed by KRS Chapter 151B, the State Board for Adult and Technical Education, may temporarily reduce the hours of work assigned to employees due to:

(1) Lack of work;

(2) Seasonal changes in demand for services; or

(3) A current or projected deficiency of funding necessary to maintain current, or to sustain projected, levels of staffing and operations.

c. An employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section shall be notified in writing of the reduced schedule of work, the reasons for the reduction, and the reasons for the employee's selection.

d. Notwithstanding any other provision of law, an employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section:

(1) Shall remain eligible for state-paid benefits during the temporary reduction of hours; and

(2) Shall not be entitled to appeal the reduction to the Personnel Board or, in the case of employees governed by KRS Chapter 151B, the State Board for Adult and Technical Education, unless the length of the furlough exceeds ten consecutive working days.

e. Whenever a furlough is necessary, the appointing authority of an agency shall decide in which county or facility and within which classifications the furlough will occur, and the number of employees to be furloughed within each affected county, facility, or classification. The order of furlough shall be based on length of service and relative qualifications to perform the essential functions of any positions that remain in operation within the agency, county, or facility.

f. An employee subject to KRS Chapter 18A who has been furloughed for more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established by this section in determining the order of furlough, may appeal to the Personnel Board within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 18A.095 shall govern appeals based on furloughs.

g. An employee subject to KRS Chapter 151B who has been furloughed more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established in this section in determining the order of furlough, may appeal to the State Board for Adult and Technical Education within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 151B.060 shall govern appeals based on furlough.

h. Notwithstanding any other provision of law, an employee participating in one of the state retirement systems who is furloughed to the extent of working less than 100 hours per month shall, upon return to regular hours, have the right to purchase service credit, based upon the regular rate of pay, for the months the employee was placed on furlough and worked less than 100 hours. Payment may be by lump sum or in increments and shall be computed by the retirement system in accordance with applicable law. If the employee elects to purchase service credit, the employing agency shall pick up contributions for the months purchased by the employee in accordance with applicable retirement statutes.

i. The Secretary of the Personnel Cabinet shall promulgate an administrative regulation to implement a furlough program; however, the Secretary shall present the proposed administrative regulation to the Interim Joint Committee on Appropriations and Revenue prior to filing the administrative regulation. The administrative regulation shall include a provision authorizing employees to elect to voluntarily participate in a furlough program..

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2002-2003 and fiscal year 2003-2004.

		2002-03	2003-04
A.	GOVERNMENT OPERATIONS		
1.	Office of State Budget Director Agency Revenue Funds	550,000	
2.	Governor's Office for Technology Other Special Revenue Funds	377,300	
3.	Department of Veterans' Affairs Agency Revenue Funds	830,300	
4.	Governor's Office of Early Childhood Development (KRS 200.151)	1,861,800	
5.	Kentucky Infrastructure Authority Other Special Revenue Funds (KRS 224A.112)	1,000,000	1,000,000
6.	Governor's Office of Agricultural Policy Tobacco Funds (KRS 248.703)	611,200	513,300
7.	KY Agency for Substance Abuse (KRS 200.151)	1,500,000	1,500,000
8.	Secretary of State (KRS 14.140)	200,000	
9.	Secretary of State Trust Funds	2,000	
10.	Board of Elections Other Special Revenue Funds	23,300	
11.	Attorney General Agency Revenue Funds	562,500	
12.	Attorney General Other Special Revenue Funds	16,800	
13.	County Attorneys	28,900	

	Agency Revenue Funds		
14.	Auditor of Public Accounts	300,000	
	Agency Revenue Funds		
15.	Military Affairs	500,000	
	Agency Revenue Funds		
16.	Local Government Economic Development Fund (KRS 42.4592)		10,603,000
17.	Commission on Human Rights	1,500	
	Agency Revenue Funds		
18.	Board of Accountancy (KRS 325.250)	300,000	
19.	Board of Architects (KRS Chapter 323)	60,900	
20.	Board of Auctioneers (KRS 330.050 and 330.192)	476,400	
21.	Board of Chiropractic Examiners (KRS 312.019)	49,500	
22.	Board of Dentistry (KRS 313.350)	56,000	
23.	Board of Dietitians and Nutritionists (KRS 310.041)	79,900	
24.	Board of Embalmers and Funeral Directors (KRS Chapter 316)	74,000	
25.	Board of Engineers and Land Surveyors (KRS 322.420)	544,700	
26.	Board of Geologists (KRS 322A.050)	40,000	
27.	Board of Landscape Architects (KRS Chapter 323)	14,000	
28.	Board of Marriage and Family Therapists (KRS 335.342)	8,600	
29.	Board of Medical Licensure (KRS 311.610)	794,000	
30.	Board of Nursing (KRS 314.456)	1,574,700	
31.	Board of Occupational Therapy (KRS 319A.050)	168,600	
32.	Board of Ophthalmic Dispensers (KRS 326.120)	14,500	
33.	Board of Optometric Examiners (KRS 320.360)	32,600	
34.	Board of Pharmacy (KRS 315.195)	811,700	
35.	Board of Physical Therapy (KRS 327.080)	77,400	
36.	Board of Podiatry (KRS 311.450)	65,500	

37.	Board of Professional Counselors (KRS 335.520)		47,500	
38.	Board of Proprietary Education (KRS 165A.380)		263,200	
39.	Real Estate Appraisers Board (KRS 324A.065)		206,600	
40.	Real Estate Commission (KRS 324.286 and 324.410)		853,600	
41.	Board of Respiratory Care (KRS 314A.215)		3,600	
42.	Board of Social Workers (KRS 335.140)		163,400	
43.	Board of Speech Pathologists and Audiologists (KRS 334A.120)		68,100	
44.	Board of Veterinary Examiners (KRS 321.320)		82,900	
B.	CABINET FOR ECONOMIC DEVELOPMENT			
1.	Kentucky Economic Development Finance Authority (KRS 154.20-010 to 154.20-150)		13,327,000	11,895,000
2.	Financial Incentives Other Special Revenue Funds		6,600	
C.	EDUCATION			
1.	Operations and Support Services Agency Revenue Funds		50,000	
2.	School Districts Flexible Spending Accounts		14,000,000	14,000,000
D.	EDUCATION, ARTS, AND HUMANITIES CABINET			
1.	Kentucky Arts Council (KRS 153.210 to 153.235)		57,200	
2.	Libraries and Archives - General Operations Agency Revenue Funds		33,900	
3.	Libraries and Archives - Direct Local Aid Agency Revenue Funds		14,400	
E.	CABINET FOR FAMILIES AND CHILDREN			
1.	Community Based Services Agency Revenue Funds		15,000,000	
F.	FINANCE AND ADMINISTRATION CABINET			
1.	General Administration Asbestos Litigation Fund		340,600	
2.	General Administration Other Special Revenue Funds		184,900	
3.	General Administration Other Expendable Trust Funds		508,700	
4.	Office of the Controller Other Special Revenue Funds		2,847,900	
5.	Debt Service	12,300		

	(KRS 248.655)			
6.	Capital Construction Investment Income		4,000,000	3,000,000
7.	Capital Construction and Equipment Purchase Contingency Fund (KRS 45.770)		16,928,000	
8.	Emergency Repair, Maintenance, and Replacement Fund (KRS 45.780)		5,000,000	
9.	Statewide Deferred Maintenance Fund		1,000,000	
10.	Capital Construction Surplus Account (KRS 45.775)		2,009,000	
11.	Technology Trust Fund (1998 Ky. Acts ch. 615, Part X, Sec. 5, II., 5)		12,743,800	
12.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Rural Development Trust Fund (KRS 248.654)		2,023,700	
13.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Early Childhood Development Trust Fund (KRS 200.151 and 248.654)		1,556,700	
14.	Tobacco Settlement - Phase I - Excess Fiscal Year 2001-2002 Payments Above Budgeted - Health Care Improvement Trust Fund (KRS 194A.055 and 248.654)		1,556,700	
15.	Rural Development Trust Fund Interest Income (KRS 248.654 and 248.655)		973,300	
16.	Early Childhood Development Trust Fund Interest Income (KRS 200.151 and 248.654)		163,600	
17.	Health Care Improvement Trust Fund Interest Income (KRS 194A.055 and 248.655)		145,700	
G.	CABINET FOR HEALTH SERVICES			
1.	Public Health (KRS 200.151)	299,000		
2.	Mental Health/Mental Retardation (KRS 200.151)		18,500	
3.	Children With Special Health Care Needs (KRS 200.151)		131,700	
4.	Aging Services Other Special Revenue Funds		50,000	
5.	Administrative Support Other Special Revenue Funds		238,000	
H.	JUSTICE CABINET			
1.	State Police	1,250,000		

	Agency Revenue Funds		
2.	Criminal Justice Training Kentucky Law Enforcement Foundation Program Fund (KRS 15.430 and 136.392(2))	3,600,000	
3.	Juvenile Justice Agency Revenue Funds	6,000,000	4,000,000
4.	Juvenile Justice Other Special Revenue Funds	39,600	
I.	LABOR CABINET		
1.	General Administration and Support Agency Revenue Funds	250,000	
2.	Workers' Compensation Funding Commission Agency Revenue Funds (KRS 342.122 and 342.1223)	4,750,000	
J.	NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET		
1.	Environmental Protection Agency Revenue Funds	1,100,000	
2.	Environmental Protection Waste Tire Trust Fund (KRS 224.50-870)		500,000
3.	Natural Resources Agency Revenue Funds	900,000	
4.	Surface Mining Reclamation and Enforcement Agency Revenue Funds	1,500,000	
5.	Surface Mining Reclamation and Enforcement - Bond Pool Fund (KRS 350.700)	3,000,000	
6.	Kentucky Pride Trust Fund (KRS 224.43-505)		2,468,000
K.	PERSONNEL CABINET		
1.	Flexible Spending Account (KRS 18A.225(2)(g))	13,000,000	1,326,000
2.	Health Purchasing Alliance Refund (KRS 304.17A-071)	3,630,200	
3.	State Employees Workers' Compensation Reserve (KRS 18A.370 to 18A.385)	4,000,000	
4.	Personnel - General Operations Trust Funds	347,600	
5.	General Operations Agency Revenue Funds	50,000	
6.	General Operations Insurance Administration Funds	60,000	
L.	POSTSECONDARY EDUCATION		
1.	Council on Postsecondary Education	92,100	

	Agency Revenue Funds		
2.	Council on Postsecondary Education Student Financial Aid and Advancement Trust Fund (KRS 164.7911 and 164.7927)	406,200	
3.	Council on Postsecondary Education Adult Education and Literacy Funding Program (KRS 164.041)	245,000	
4.	Council on Postsecondary Education University Equine Program Trust Fund (KRS 138.510(6))	48,500	
5.	Council on Postsecondary Education Strategic Investment and Incentive Funding Program Trust Fund - Interest Income (2000 Ky. Acts ch. 549, Part I, L., 56)	2,200,000	
6.	Kentucky Higher Education Assistance Authority (KRS 200.151)	193,000	
7.	Kentucky Community and Technical College System Kentucky Firefighters Foundation Program Fund (KRS 95A.220, 95A.262, and 136.392(2))	1,400,000	
M.	PUBLIC PROTECTION AND REGULATION CABINET		
1.	Alcoholic Beverage Control (KRS 243.025)	2,500,000	500,000
2.	Financial Institutions (KRS 287.485)	3,700,000	2,000,000
3.	Kentucky Racing Commission (KRS 230.374)	1,430,000	
4.	Insurance (KRS 304.2-400)	6,000,000	6,000,000
5.	Insurance Fire and Tornado Insurance Fund (KRS 56.095, 56.150, and 56.180)	500,000	500,000
6.	Insurance Kentucky Access (KRS 304.17B-001 to 304.17B-031)	56,000,000	
7.	Public Service Commission (KRS 278.150(3))	284,400	508,600
8.	Secretary - General Operations Agency Revenue Funds	300,000	
9.	Secretary - Petroleum Storage Tank Environmental Assurance Fund (KRS 224.60-100 to 224.60-160)	71,000,000	20,500,000
N.	TOURISM DEVELOPMENT CABINET		
1.	Department of Parks	500,000	

	(KRS 148.021)		
2.	Kentucky State Fair Board Freedom Hall Portable Trailers (2000 Ky. Acts ch. 549, Part II, Sec. O., 2., c)	300,000	
3.	Kentucky State Fair Board Agency Revenue Funds	1,500,000	2,413,500
O.	TRANSPORTATION CABINET		
1.	Air Transportation Kentucky Aviation Economic Development Fund (KRS 183.525(3), (4), and (5))	2,900,000	
2.	General Administration and Support Fleet Management Fund	6,000,000	
P.	WORKFORCE DEVELOPMENT CABINET		
1.	Technical Education Agency Revenue Funds	100,000	
2.	Employment Services Unemployment Insurance Penalty and Interest (KRS 341.835)	2,250,000	
	TOTAL	313,845,300	83,227,400

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,916,450,000 in fiscal year 2002-2003 and $7,149,750,000 in fiscal year 2003-2004 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2002-2003 and 50 percent of the trust fund balance in fiscal year 2003-2004.

(5) Notwithstanding the provisions of KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the

Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2002-2003 and fiscal year 2003-2004. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,121,129,400 in fiscal year 2002-2003 and $1,140,210,500 in fiscal year 2003-2004 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the 2002-2004 Biennial Highway Construction Program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATIONS

1. GOVERNOR'S OFFICE FOR TECHNOLOGY

a. Office of Statewide 911 Coordination: The Office of Statewide 911 Coordination is established within the Governor's Office for Technology. The Office of Statewide 911 Coordination shall have the responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for public safety answering points and private telephone system owners and operators. The 911 coordinator shall collect data from public safety answering points and private telephone system owners and operators and shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment.

b. Electronic Health Network - Feasibility Study: The Interim Joint Committee on Health and Welfare of the Legislative Research Commission is directed to study the feasibility of implementing an electronic health network in the Commonwealth. The Interim Joint Committee on Health and Welfare will report its findings and recommendations to the Legislative Research Commission by December 1, 2002.

c. CMRS Board: Notwithstanding KRS 65.7639, no information provided to the CMRS Board under KRS 65.7639 shall be disclosed other than to the submitting CMRS provider, the administrator, the board, and the independent certified public accountant retained by the Board under KRS 65.7629(13) without the express permission of the submitting CMRS provider unless ordered by a court of competent jurisdiction.

2. DEPARTMENT OF VETERANS' AFFAIRS

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center at Wilmore is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 2002-2004.

b. General Fund Operating Support: Notwithstanding KRS 45.229, the unexpended balance of the General Fund appropriation provided to the Eastern Kentucky Veterans' Center, the Western Kentucky Veterans' Center, and the Thompson/Hood Veterans' Center in fiscal year 2001-2002 shall not lapse and shall be carried forward into fiscal year 2002-2003; the unexpended balance of the General Fund appropriation in fiscal year 2002-2003 shall not lapse and shall be carried forward into fiscal year 2003-2004.

3. SECRETARY OF STATE

a. Help America Vote Act Duties: The Secretary of State, in conjunction with the Governor, shall prepare a state plan meeting the requirements of the Help America Vote Act of 2002, Pub. L. No. 107-252, for submission to the federal government. The Secretary of State shall utilize the amounts in the Election Reform Fund for the purposes of the Help America Vote Act.

b. Election Reform Fund Account: An Election Reform Fund account is created to receive and expend Federal Funds provided under the Help America Vote Act, Federal Funds provided under any federal appropriations acts that are enacted to fund the Help America Vote Act, or other amounts that may be appropriated by law, and any interest accruing thereon.

c. Help America Vote Act, Budgetary Operations: In order to implement the provisions of the Help America Vote Act and carry out the provisions of enabling legislation, and to serve as the five percent state match for Kentucky's receipt of Federal Funds under the Help America Vote Act, in Part I, Operating Budget, there is appropriated from the General Fund to the Election Reform Fund the sum of $2,100,000 in fiscal year 2002-2003. Notwithstanding KRS 45.229, any funds unexpended by the Secretary of State from the Election Reform Fund at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund, shall not lapse, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes as specified in enabling legislation.

4. BOARD OF ELECTIONS

a. Help America Vote Act Funding Requirements for Federal Assistance: For purposes of compliance with the Help America Vote Act, upon the receipt of Federal Funds provided by Title III of the Help America Vote Act, any amounts appropriated to the State Board of Elections to meet the requirements of Title III of the Help America Vote Act shall not be less than the sum of $1,303,100, which is the level of expenditures maintained by the Commonwealth for fiscal year 1999-2000 for the administration of elections.

5. ATTORNEY GENERAL

a. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two assistant deputy attorneys general at a rate less than that required in KRS 15.100.

b. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Finance and Administration Cabinet shall approve up to $175,000 for the 2002-2004 biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

c. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

d. Child Sexual Abuse Exams: Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victim's license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

e. Legal Services Contracts: The Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services.

f. Public Funds: Notwithstanding KRS 48.005(5)(b), up to $2,200,000 in funds collected pursuant to KRS 48.005(5) shall be deposited in an off-budget account and transferred to the County Cemetery Fund in accordance with Part IX, Special Provisions, Government Operations, 8.b., of this Act. Notwithstanding KRS 48.005(5)(b), any amounts in excess of $2,200,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account and no funds shall be disbursed without a specific legislative appropriation by the General Assembly while in a regular or special legislative session. This provision shall not apply to any funds or other assets recovered by judgment, settlement, or legal action by or on behalf of the Commonwealth, or other actions filed by a duly elected statewide public official, if the recovery sought and received is for specific individuals, identified as parties to the action, or persons for whom the recovery is received if identified specifically. Identification includes but is not limited to identification either by individual Social Security numbers, by other identifying number, or by proper name.

6. UNIFIED PROSECUTORIAL SYSTEM

a. Prosecutors Advisory Council Administrative Functions: The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in this Act.

b. Rape Victim Assistance Fund: Notwithstanding KRS 216B.400(8), the Rape Victim Assistance Fund and the responsibility for claims payments made from the fund shall be transferred to the Board of Claims/Crime Victims' Compensation Board in fiscal year 2003-2004.

7. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of 120 days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2003 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

8. DEPARTMENT OF AGRICULTURE

a. Agriculture - PACE Program: The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

b. Reauthorization of the Kentucky Aquaculture Task Force: The Kentucky Aquaculture Task Force is reauthorized and attached to the Department of Agriculture for administrative purposes. The membership, duties, and responsibilities of the Task Force shall be identical to those enacted by the 2000 Kentucky General Assembly, 2000 Ky. Acts ch. 77, except the Task Force shall develop an interim report by September 1, 2002, and a final report by September 1, 2003, with respect to the implementation of the State Aquaculture Plan recommendations and other recommendations that the Task Force may support relating to the aquaculture industry in the Commonwealth. The reports shall be submitted to the Governor and to the Legislative Research Commission.

Notwithstanding the provisions of this section, the Legislative Research Commission shall have the authority to alternatively assign the directives identified in this section to an interim joint committee or subcommittee thereof, and to designate a study completion date. In the event the Legislative Research Commission assigns the responsibilities and duties relating to the Kentucky Aquaculture Task Force to an interim joint committee or subcommittee thereof, any funds remaining from the amounts provided in Part I, Operating Budget, of this Act for the purpose of preparing the reports to be completed by the Task Force shall be transferred to the Legislative Research Commission.

9. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

10. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

b. Cemetery Preservation: Restricted Funds of $2,200,000 attributable to Multi-State Consumer Protection Lawsuit Settlement Proceeds shall be transferred to the County Cemetery Fund pursuant to KRS 67.682. In fiscal year 2002-2003, $1,450,000 is appropriated from these funds in the form of grants pursuant to KRS 67.682. The remaining unappropriated Restricted Funds transferred to the County Cemetery Fund shall not lapse and shall carry forward from each fiscal year to the succeeding fiscal year. In fiscal year 2003-2004, $250,000 is appropriated from these funds in the form of grants pursuant to KRS 67.682. Included within the above appropriated amounts, $1,200,000 shall be made available to the Louisville/Jefferson County Cemetery Preservation initiative upon certification to the Department for Local Government that $800,000 in local cash matching resources has been raised. The City of Louisville shall administer this initiative. Also included within the above appropriated amounts is $250,000 in each fiscal year of the biennium for cemetery preservation grants to be approved by the Department for Local Government subject to a dollar-for-dollar cash or non-cash match from individual public or private grant applicants. Included in the above appropriated amounts is $20,000 each fiscal year that is appropriated and granted to the Fayette County African Cemetery #2. Notwithstanding KRS 42.500, the Department for Local Government may expend interest earnings from the County Cemetery Fund for program administration upon application to and approval from the State Budget Director whose approval shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630. Funds credited to the County Cemetery Fund shall be invested by the Finance and Administration Cabinet according to existing law.

11. EDUCATION PROFESSIONAL STANDARDS BOARD

a. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

b. Teacher Education Model Program: Funding in the amount of $2,000,000 shall be provided during fiscal year 2002-2003 for a Teacher Education Model Program to be administered by the Education Professional Standards Board. The purposes of the program shall be to:

(1) (a) Support model teacher education programs that demonstrate effective research-based instruction and assessment practices, involve the entire university community in teacher education, demonstrate collaboration and partnerships between elementary, secondary, and postsecondary education, facilitate the recruitment and retention of talented people in the teaching profession through innovative, nontraditional programs and multiple certification routes, require high-quality, extensive field experiences and practicums in addition to ongoing classroom observations as an essential element at all stages of the Teacher Preparation Program, and raise the existing and prospective teachers' professional knowledge in content and pedagogy.

(b) Provide incentives to teacher education and other university faculty to increase service activities beyond the usual field observations and supervision of teacher education students to include mentoring and guiding of prospective teacher education students, of beginning teachers in the induction stage, and of experienced teachers in continuous improvement activities; conducting training and professional development activities which may include funding stipends to teachers for participation; providing funding and supervision for paid sabbaticals for a selected number of local school district teachers; assisting teachers with evaluation and revision of curricula and instruction to improve student achievement; and other innovative strategies to improve the quality of teaching.

(2) By October 15, 2002, the Board shall identify two or more public or independent teacher education institutions or consortia of institutions that meet the criteria in subsection (1)(a) of this section and are eligible to make applications for funds under this section.

(3) By November 1, 2002, the Board shall establish the grant request process, the time frame, and the system for determining the size of the grants. In determining the size of the grants, the Board shall consider the scope of the Teacher Education Program, the number of undergraduate and graduate students enrolled, the number of teacher and administrator interns, the extent of university-wide faculty involvement in induction and in-service activities with teachers in local school districts, and other data as deemed appropriate by the Board. By January 1, 2003, all eligible institutions shall be notified of the request for proposals.

(4) The Board shall make the grant awards prior to the start of the 2003-2004 fiscal year.

12. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

ECONOMIC DEVELOPMENT

13. OFFICE OF THE SECRETARY

a. New Economy: Funding for the Commissioner for the New Economy: Notwithstanding Subtitle 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the Commissioner for the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects.

Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget.

b. New Economy Women and Minority Programs: The Commissioner of the Office for the New Economy shall develop a New Economy Role Model Program and Entrepreneurial Educational Program that will encourage the participation of women and minorities in the knowledge-based economy. Such activity shall be reported within the Annual Report to the Governor and General Assembly as prescribed by KRS 164.6015(9)(d).

14. FINANCIAL INCENTIVES

The total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,000,000 for all investors and all taxable years. The total Kentucky Investment Fund Act (KIFA) tax credits available for all investors in all investment funds shall not exceed $3,000,000 per fiscal year.

Notwithstanding KRS 154.20-255 and 154.20-256, the Commissioner of the Office for the New Economy shall establish standards and criteria that shall be used to grant investment fund managers a waiver from compliance with KRS 292.330 and any other requirement under state law that an investment fund manager shall be a registered investment advisor. A waiver granted by the Commissioner of the Office for the New Economy to any investment fund manager that exempts the investment fund manager from complying with KRS 292.330, or the Kentucky Economic Development Fund Authority's approval of an investment fund or investment fund manager under this section, shall not be construed a certification of the investment fund manager's experience, knowledge, quality or other abilities and competencies. This information shall be conveyed to each investor.

Notwithstanding 2002 Ky. Acts ch. 230, any administrative regulation to be promulgated regarding the programs, policies, or tax credits addressed in 2002 Ky. Acts ch. 230 shall be reviewed and approved by the Commissioner of the Office for the New Economy.

The Department of Financial Incentives shall defer to the Commissioner of the Office for the New Economy when preparing contracts subsequent to the Kentucky Economic Development Finance Authority's approval of projects recommended by the Commissioner of the Office for the New Economy. These contracts shall be acted upon within 60 days following the approval of the Authority.

DEPARTMENT OF EDUCATION

15. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: Notwithstanding KRS 157.360(2)(c), the General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) Program are intended to provide a base guarantee of $3,081 per student in average daily attendance in fiscal year 2002-2003 and $3,164 per student in average daily attendance in fiscal year 2003-2004 as well as to meet the other requirements of KRS 157.360.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the Support Education Excellence in Kentucky Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Certified Staff Cost of Living Adjustments: Notwithstanding KRS 157.420(2), all certified staff employed by local boards of education shall receive a cost-of-living adjustment totaling at least $1,080 in fiscal year 2003-2004. The cost-of-living adjustment shall be at least $1,080 for every certified staff member employed by a local board of education regardless of the individual length of the staff member's employment contract or annual base salary. Certified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the $1,080 cost-of-living adjustment based on terms of their employment. The cost-of-living adjustment totaling at least $1,080 in fiscal year 2003-2004 shall be in addition to the normal rank and step increases attained by certified personnel employed in local school districts.

c. Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

d. Local Revenue: For calendar year 2003, a district board of education may levy a general rate that will produce revenue from real property, exclusive of revenue from new property that is up to four percent over the amount of the revenue produced by the compensating rate as defined in KRS 132.010.

e. SEEK Adjustment Factors: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

f. Use of Local District Capital Outlay Funds: Notwithstanding KRS 157.420(4) and (6), a local district may submit a request to the Commissioner of Education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance in fiscal year 2003-2004 without forfeiture of the district's participation in the School Facility Construction Commission.

16. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

b. Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

c. Medicaid Reimbursement Funds: The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid Program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Medicaid Services prior to review and approval by the Governor's Office of Policy and Management and submission to the Interim Joint Committee on Appropriations and Revenue at least 60 days prior to any distribution of federal funds.

d. Elementary Arts and Language Education: The Department of Education shall establish a program that promotes the integration of the arts and foreign languages in the elementary school program. A school must submit any application through the district superintendent, with the agreement of the school council or of the principal, if a council does not exist. Out of any moneys made available for this purpose in the 2002-2004 fiscal biennium, the department shall award a grant to at least one school per region based on the quality of the application in meeting the criteria established in this section. Special consideration shall be given but not limited to a school that does not have an existing comprehensive arts and foreign language program.

School programs under this section must include, at a minimum, the following components: (1) Instruction in each of the four disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school; (2) Intense instruction in at least one foreign language and culture taught and including all students in the elementary school; (3) Integration of arts and foreign language instruction across the curriculum; (4) Coordination of the programs by teachers with appropriate arts and foreign language certification; (5) Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign language; (6) An effective monitoring and evaluation system that includes student performance assessment; (7) Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers; (8) Support from the local school board, the school council, and teachers; and (9) Student attendance at one or more live performance or visual art exhibition each school year.

The Department of Education shall report annually on the implementation of the program to the Governor and the Legislative Research Commission.

e. Kentucky Board of Education Membership: Notwithstanding KRS 156.029(2), no Kentucky Board of Education member at the time of the member's appointment or during the term of service shall be engaged as a professional educator in elementary or secondary education.

17. LEARNING AND RESULTS SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 2002-2003 but shall be available if needed in fiscal year 2003-2004. Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the per month per employee assessment as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System:

(1) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(2) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Family Resource and Youth Services Centers: Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2002-2003 and in fiscal year 2003-2004 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Cabinet for Families and Children identifying the salary of the director. The Cabinet for Families and Children shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

d. Area Centers and Vocational Departments Funding Formula: All funds appropriated in the budget for supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled. If the funding formula results in a reduction of funds from the fiscal year 2001-2002 allocation for a center or department that has maintained the same number and category of programs and meets all other criteria, the center shall receive no less than 70 percent of its fiscal year 2001-2002 allocation.

e. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

f. Allocation of Safe School Funds: Notwithstanding KRS 158.446, the Center for School Safety shall develop and implement allotment policies for all moneys received for the purposes of KRS 158.440, 158.441, 158.442, 158.445, and 158.446.

g. Gifted and Talented Funds: All moneys appropriated for the Gifted and Talented Program shall be expended by local school districts solely for purposes and activities relating to the Gifted and Talented Program.

h. Fund Transfers: The Commissioner of the Department of Education may transfer any available funds between the Professional Growth Fund and the Professional Development Leadership Mentor Fund as needed to satisfy the demand and need to support respective teacher programs.

i. Program Flexibility: Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regards to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall be modified to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population.

j. Advisory Council for Gifted and Talented Education: Notwithstanding KRS 158.648(1), a member of the Advisory Council for Gifted and Talented Education may be reappointed but may not serve more than three consecutive terms.

k. Publishing Requirements: Notwithstanding KRS 160.463 and 424.220, public availability of the school district's complete annual financial statement shall be made by publishing the documents in the newspaper of the largest general circulation in the county, electronically on the Internet, or by printed copy at a prearranged site at the main branch of the public library within the school district. If publication on the Internet or by printed copy at the public library is chosen, the superintendent shall be directed to publish notification in the newspaper of the largest circulation in the county as to the location where the document can be viewed by the public. The notification shall include the address of the library or the electronic address of the Web site on the Internet where the documents can be viewed.

l. Director of Pupil Personnel: Notwithstanding KRS 159.140, a local district superintendent may employ the Director of Pupil Personnel less than full-time upon approval of a request submitted to the Commissioner of Education. The Commissioner shall take into consideration the size of the school district, the attendance and dropout rate of the district, and the district's supports to assure student attendance and school completion in approving a request.

m. Textbook Adoption: Notwithstanding KRS 156.400, the Commissioner of Education may delay the adoption of textbooks or combine two groups for adoption.

n. Local District Grant Fund Carry Forward: Notwithstanding KRS 45.229, up to ten percent of any state grant fund to a local district that is unexpended for fiscal year 2002-2003 may be carried forward to fiscal year 2003-2004 without a reduction in the fiscal year 2003-2004 allocation.

o. Surplus Property: Notwithstanding KRS 45A.045, 45.777, and 56.463, any funds received by the Commonwealth from the disposal of any surplus property at the Kentucky School for the Blind and the Kentucky School for the Deaf shall be deposited in a restricted account for the sole use by those schools in accordance with all other applicable statutes.

EDUCATION, ARTS, AND HUMANITIES

18. TEACHERS' RETIREMENT SYSTEM

a. Highly Skilled Educators' Retirement Benefits: Notwithstanding KRS Chapters 158 and 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

b. Critical Shortage Provision: Teachers' Retirement System members who retired on or before June 30, 2002, may, for fiscal year 2002-2003 and fiscal year 2003-2004, be reemployed under the full-time critical shortage provisions of KRS 161.605(7) as they existed on June 30, 2002.

19. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 2002-2003 and fiscal year 2003-2004 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

b. Offers of Assistance: Notwithstanding KRS 157.622, a local school district may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight years.

c. School Operations: School #840, a historical community school in district #175, shall not be closed or substantially changed.

d. Growth Nickel Levy: The Facilities Support Program of Kentucky is fully funded in fiscal biennium 2002-2004. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

e. Facilities Plans: Notwithstanding KRS 157.620(5), any school district that did not receive an offer of assistance during the 2000-2002 biennium that resulted from the $100,000,000 authorization of the 2000 General Assembly, that has an unmet need established based on the facility plan in effect on June 30, 2002, shall receive an offer of assistance based on any increase to the above-referenced authorization made by the 2003 General Assembly that is not specifically designated for another purpose.

f. Escrowed Offers of Assistance: Notwithstanding 750 KAR 1:010, Section 5, the 2000 Kentucky School Facilities Construction Commission offer of assistance for Public School District 221 shall be reinstated.

g. Accumulated Credits: Notwithstanding 750 KAR 1:010, Section 9, Public School District 235 shall not forfeit fund credit accumulated.

h. School Facility Revenue: A local board of education may commit an equivalent tax rate not to exceed five cents ($.05) in addition to the taxes levied in KRS 157.440 (1) (b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year, and shall not be equalized with state funding. The levy shall be subject to recall.

20. DEPARTMENT FOR LIBRARIES AND ARCHIVES

a. Undistributed moneys: Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with a book supplier shall be appropriated to the Department of Libraries and Archives for the benefit of libraries in the Commonwealth.

CABINET FOR FAMILIES AND CHILDREN

21. CABINETWIDE

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet. Phase I Tobacco Settlement Funds appropriated to the Cabinet may be used as state match to maximize Federal Funds available through the Child Care Development Fund.

b. Human Services Transportation Delivery: Notwithstanding KRS 281.014, 281.870, 281.872 or any other statute or provision of law to the contrary, the Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

22. COMMUNITY BASED SERVICES

a. Education for Recipients of Public Assistance: The Department for Community Based Services shall make available to a minimum of seven percent of total adult public assistance recipients placements in postsecondary or vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the postsecondary or vocational educational placement as part of the required program of study or financial assistance.

b. Severely Emotionally Disturbed Children: Included in the General Fund appropriation is $600,000 in fiscal year 2002-2003 and $600,000 in fiscal year 2003-2004 to provide services for state-committed severely emotionally disturbed children.

c. Child Support Contracting Officials: Included in the General Fund and Federal Funds appropriations for Community Based Services is support for Child Support Contracting Officials to be maintained at the fiscal year 2001-2002 total contracted level of $33,185,100. Up to $1,000,000 in fiscal year 2002-2003 and $1,000,000 in fiscal year 2003-2004 of Child Support Performance Award Funds may be utilized in the Child Support Contracting Officials Contracts to maximize Federal Funds. Funds for individual contracts shall be allocated based on spending and performance patterns utilizing an equity plan negotiated between the Cabinet for Families and Children and the County Attorney Association.

d. Adoptions: In addition to the required health history, the Cabinet for Families and Children or child-placing agency shall provide to adoptive parents or adopted person and to the Circuit Court in writing on a standardized form other nonidentifying background information of the biological parents and blood relatives of the adopted person. The information shall be provided in accordance with KRS 199.520.

e. Children's Advocacy Centers: Included in the General Fund appropriation for the Department for Community Based Services is $100,000 in fiscal year 2003-2004 for child sexual abuse exams.

f. Child Care Services: Child care services, including provider rates, participant copays, and eligibility requirements, are maintained at the current levels.

g. Guardianship Program: Pursuant to KRS 210.290 and 387.600, the Cabinet for Families and Children may be appointed guardian only when no other suitable person or entity is available or willing to be appointed.

HEALTH SERVICES

23. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

24. MEDICAID ADMINISTRATION

a. Transfer of General Fund or Restricted Funds from Medicaid Benefits to Medicaid Administration: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration a total of up to $3,500,000 over the biennium of the General Fund or Restricted Funds appropriations from the Medicaid Benefits budget to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Health Insurance Portability and Accountability Act (HIPAA) compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director, and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

b. Kentucky Patient Access to Care (KenPAC) Program Reimbursement: The Medicaid Benefits Budget includes funds to continue an Enhanced Kentucky Patient Access to Care (KenPAC) Program with reimbursement to gatekeeper providers on a sliding scale of $3 to $9 per member per month based upon performance and quality criteria. The Department for Medicaid Services shall promulgate administrative regulations which reflect this Act.

c. Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or Cabinet for Health Services shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

d. Administrative Service Organization: The Department for Medicaid Services shall, no later than July 1, 2002, initiate a formal procurement process, pursuant to KRS Chapter 45, to contract with an Administrative Service Organization (ASO). This organization shall assist with the administration of the Kentucky Access to Patient Care (KenPAC) Program for all geographic areas of the Commonwealth except those areas covered by the Region III Medicaid Partnership (Passport Health Plan). Responsibilities of the ASO shall include but not be limited to: (1) Data collection and analysis for purposes of utilization management of KenPAC services; (2) Client education and assignment; (3) Provider recruitment and education; (4) Physician profiling, including an analysis of cost and utilization by category of service (i.e. inpatient, outpatient, emergency room (ER), laboratory, ambulatory, pharmacy, and home health), and an analysis of cost by diagnoses codes for peer comparisons of utilization; (5) Support services for KenPAC primary care providers including disease management, a help desk for the management of ER services, and the restructuring of payment methodologies to align with utilization management goals; and (6) The design and management of provider incentives and measures to assure program integrity and management of the Lock-in Program. Using improved data collection methods, the ASO shall focus on cost containment and utilization management for all KenPAC services including hospital, home health, pharmacy, durable medical equipment and diagnostics, with a special emphasis on the management of care for high cost utilizers. In order to monitor the effectiveness of managed care through the Primary Care Case Management KenPAC model, an annual report shall be prepared which shall include but not be limited to patient-centered measures and an analysis utilizing the National Committee for Quality Assurance Health Plan Employer Data and Information Set (HEDIS) quality and use of services measures. HEDIS measures currently include: (1) Childhood immunization status; (2) Adolescent immunization status; (3) Breast cancer screening; (4) Cervical cancer screening; (5) Chlamydia screening for women; (6) Controlling high blood pressure; (7) Beta-blocker treatment after a heart attack; (8) Cholesterol management after acute cardiovascular events; (9) Comprehensive diabetes care; (10) The use of appropriate medications for persons with asthma; (11) Follow-up after hospitalization for mental illness; (12) Antidepressant medication management; (13) Advising smokers to quit; (14) Adults' access to preventive/ambulatory health services; (15) Children's access to primary care practitioners; (16) Prenatal and postpartum care; (17) Annual dental visits; (18) Practitioner turnover; (19) The frequency of on-going prenatal care; (20) Well-child visits in the first 15 months of life; (21) Well-child visits in the third, fourth, fifth, and sixth year of life; (22) Adolescent well-care visits; (23) The frequency of selected procedures; (24) Inpatient utilization of general hospital/acute care; (25) Ambulatory care (includes ER); (26) Inpatient utilization of non-acute care; (27) Discharge policies and average length of stay for maternity care; (28) Cesarean section; (29) Vaginal birth after cesarean section birth rate (VBAC rate); (30) Births and average length of stay for newborns; (31) Mental health utilization - inpatient discharges and average lengths of stay; (32) Mental health utilization - the percentage of members receiving services; (33) Chemical dependency utilization - inpatient discharges and average lengths of stay; (34) Chemical dependency utilization - percentage of members receiving services; and (35) Outpatient drug utilization. The annual report shall also include: (1) An evaluation of provider-centered measures; (2) The success of an analysis of physician profiling including financial profiling, and case-mix adjusted profiling; (3) Trend rates of the utilization of all KenPAC services; (4) Provider surveys; and (5) Cost containment realization. The annual report shall also profile patient population measures and trends, including eligibility by age, gender, and eligibility category. To the extent possible, the annual report shall also include comparisons to similar programs in peer states, particularly the southern region.

e. Nursing Facility Reimbursement Review: The Cabinet for Health Services shall review the current reimbursement methodology for nursing facility services to determine if current price-based methodology reflects actual direct nursing care costs and promotes quality long term care. The Cabinet shall include the following organizations in this study panel: Kentucky Hospital Association, Kentucky Association of Homes and Services for the Aging, and the Kentucky Association of Health Care Facilities. The report shall be due to the Legislative Research Commission, Interim Joint Committee on Appropriations and Revenue, and Interim Joint Committee on Health and Welfare by December 1, 2002.

25. MEDICAID SERVICES - BENEFITS

a. Disproportionate Share Program: Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Office of Inspector General, Division of Community Health Services, shall include this provision in facilities' annual licensure inspection.

d. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

e. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Program (DSH) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

f. Kentucky Children's Health Insurance Program: It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from the Medicaid Benefits to the Kentucky Children's Health Insurance Program (KCHIP) General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

g. Intergovernmental Transfers (IGT's): It is the intent of the General Assembly that any funds received through an intergovernmental transfer agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from Intergovernmental Transfers are contingent upon agreement by the parties and, when negotiated, the Secretary shall make the appropriations increase requests pursuant to KRS 48.630.

h. Child Sexual Abuse Exams: The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available, effective July 1, 2000. The provisions of this section shall not mandate any services or payments that are not otherwise provided in the Medicaid Benefits budget in Part I, Operating Budget. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department may require participating health care providers to meet specific training and experience requirements.

i. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care (KenPAC), nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

j. Medicaid Benefits Budget Deficit: In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Cabinet for Health Services shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis. No service, eligible, or program reductions shall be implemented by the Cabinet for Health Services without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Cabinet for Health Services shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue. Objections to the actions by the Committee shall be responded to in writing in detail, by the Secretary for Health Services within 30 days of such objections.

k. Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Cabinet for Health Services may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid Program or the number of eligibles, or transfer General Fund up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible or program shall be increased without prior communication to the Medicaid Steering Committee and written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue. If the Interim Joint Committee on Appropriations and Revenue objects to the recommendations of the Secretary of the Cabinet for Health Services, the recommendations shall be invalid unless:

(1) They are revised to comply with the objections of the committee; or

(2) The committee is informed in writing, in detail, within 30 days of the committee's objections that a determination has been made not to comply with the objections of the committee.

l. Breast and Cervical Cancer Treatment Program: The Department for Medicaid Services shall request a plan amendment from the Centers for Medicare and Medicaid Services to extend coverage to uninsured women who are under age 65, not otherwise eligible for Medicaid, have breast or cervical cancer as diagnosed through a recognized screening program, need treatment for breast or cervical cancer and meet any other eligibility criteria established under the Federal Breast and Cervical Prevention and Treatment Act of 2000. Medical assistance for breast or cervical cancer, or precancerous conditions, shall be limited to treatment until a cure or remission is achieved. Medical assistance shall be reinstituted for any subsequent periods of recurrence or metastasis or any future conditions establishing eligibility under this Act. This program may accept gifts, grants, and bequests in support of its mission and duties specified in this Act. All money received shall be administered by the Cabinet, which shall administer these funds through appropriate trust and agency accounts. The Department for Medicaid Services shall promulgate administrative regulations to implement this program within three months of federal approval of the state plan amendment.

m. Pervasive Developmental Disorders: As used in this Act, "pervasive developmental disorders" has the same meaning as in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). The term includes five diagnostic subcategories: (1) Autistic disorder; (2) Pervasive disorder not otherwise specified; (3) Asperger's disorder; (4) Rett's disorder; and, (5) Childhood disintegrative disorder. The Department for Medicaid Services shall make application, within three months of the effective date of this Act, to the Centers for Medicare and Medicaid Services for a waiver to provide services and supports to individuals who: (1) Are Medicaid eligible; (2) Have an Axis I diagnosis of a pervasive developmental disorder; (3) Are institutionalized or at risk for institutionalization; and (4) Require a coordinated plan of medically necessary community-based behavioral health services. The waiver application shall include services that are documented to be effective in the treatment of pervasive developmental disorders and consistent with clinical best practices. The waiver application shall specify the required credentials for the providers of each service. The Cabinet for Health Services shall capitate the number of children served under the Waiver Program to ensure budget neutrality based upon the expenditures for children with pervasive developmental disorders that were served under the IMPACT Plus Program during fiscal year 2001-2002. The Cabinet shall include in the waiver application those items that are necessary to ensure the waiver operates within the designated moneys including but not limited to a maximum number of individuals to be served and a maximum dollar amount that can be expended for an individual. The waiver shall be coordinated with and shall not supplant services provided by schools under KRS Chapter 157 or services provided under

KRS Chapters 200 and 347. Nothing in this section shall affect or limit a school district's ability to obtain Medicaid reimbursement for school-related health services. The Department for Medicaid Services shall report by December 1, 2002, to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare on the number of individuals receiving services under the waiver, the cost and type of services received, and any available nonidentifying information pertaining to individual outcomes.

n. Supports for Community Living Waiver: Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

26. DEPARTMENT FOR PUBLIC HEALTH

a. Abstinence Education: The Department shall use Federal Funds and state matching funds under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, in the following manner: 95 percent shall be used for community-based grants to institute abstinence education programs; five percent shall be used to administer and evaluate the effectiveness of the program; and, if funds are available after funding community-based programs, the remainder shall be used to promote abstinence education by other means, including an advertising and marketing campaign.

27. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Balanced Budget Act of 1997, as amended by the Benefits Improvements and Protection Act of 2000, in the amount of $36,620,100 in fiscal year 2002-2003 and $37,718,700 in fiscal year 2003-2004.

b. Restricted Funds Carry Forward: Any unbudgeted Restricted Funds which carry forward in fiscal year 2002-2003 or fiscal year 2003-2004 in the Department for Mental Health/Mental Retardation may be used for grants to Community Mental Health Centers.

c. Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders and Dual Diagnoses: Notwithstanding KRS 210.504, the Department for Mental Health/Mental Retardation shall provide at least $12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and Commission activities relating to the mandates of KRS 210.500, 210.502, 210.504, 210.506, and 210.509, through June 30, 2004. The regional planning councils shall make recommendations for, and the Commission shall develop, a two year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and Interim Joint Committee on Health and Welfare by December 1 of each year.

d. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing, and transporting prisoners in jails and juveniles in detention centers with mental illness. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice, and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Kentucky Jailers' Association, Jail Standards Commission, and Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002.

e. Mental Health Consultation and Education to Jails: The Department for Mental Health/Mental Retardation Services shall develop a training curriculum and allocate funds to Regional Mental Health/Mental Retardation Boards for training, consulting with, and educating jailers and jail staff on screening and responding to the needs of individuals with mental illness in jails. The training curriculum shall be based on national best practices and include a model working agreement between a Regional Mental Health/Mental Retardation Board and a jail. The training shall be delivered by Regional Mental Health/Mental Retardation Board staff to jailers and jail staff on screening and responding to the needs of inmates with mental illness. Jailers and each jail staff, except administrative support, shall attend the training the first year of the program or within six months of employment. Remaining funds shall defray costs of the Regional Mental Health/Mental Retardation Board for entering into working agreements with the region's jails for: (1) Delivery of the training curriculum to jailers and jail staff; and (2) Consultation and education on individual inmate's needs to jailers and jail staff in accordance with a working agreement. The specific arrangements in a working agreement shall be based on the needs and capacities of the jail. Treatment services may also be provided for in a working agreement, but the cost of treatment is beyond the scope of this appropriation.

f. Castlewood Prader Willis Syndrome Group Home: The contract for the operation of the Castlewood Prader Willis Syndrome Group Home shall equal at least $233,000 in each fiscal year, absent any pass-throughs to any other entities.

28. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

a. Kentucky Early Intervention System Analysis Reports: The Commission for Children with Special Health Care

Needs shall submit a quarterly budget analysis report for the Kentucky Early Intervention Services Program to the Interim Joint Committee on Appropriations and Revenue. The report shall provide the number of children enrolled, the average number of service units by category of service, and the average cost per service, by category of services, and compare actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

29. CERTIFICATE OF NEED

a. Voluntary Relinquishment of a Certificate of Need or Licensure: For 48 months following the voluntary closure, revocation of a certificate of need, or the revocation of licensure, the beds, equipment, and services provided by the closed facility shall be reserved for applications for any certificate of need to reestablish the same services, in whole or part, in the same county as the closed health facility.

30. AGING SERVICES

a. Local Match Requirements: Notwithstanding KRS 205.460, entities contracting with the Cabinet for Health Services to provide essential services under KRS 205.455 and this provision shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Cabinet for Health Services shall prescribe the procedures to certify the local match assurance.

JUSTICE

31. JUSTICE ADMINISTRATION

a. Construction Training Program: General Fund moneys appropriated to the Urban League of Lexington-Fayette County Construction Training Program in fiscal year 2002-2003 shall be used to match Federal Byrne Grant Funds. The Secretary of Justice shall supplement the General Fund appropriation with Federal Funds up to a combined total of $300,000 each fiscal year if the program meets the federal grant guidelines of grants administered by the Justice Cabinet. All moneys appropriated that cannot be utilized to match federal grants moneys shall be provided to the Urban League of Lexington-Fayette County Construction Training Program in the form of a grant to continue its activities. The Urban League of Lexington-Fayette County shall report annually on the expenditures of state and federal funds provided through this Act to the Interim Joint Committee on Appropriations and Revenue and the Office of the Secretary in the Justice Cabinet. The Urban League of Lexington-Fayette County shall be subject to any federal grant requirements that are required upon receiving federal moneys.

b. Contingent upon the passage of enabling legislation relating to the expansion of the Parole Board by the 2003 Regular Session of the General Assembly, the Secretary of the Justice Cabinet shall determine the source and amount of funding necessary to support the expansion for fiscal year 2003-2004 from appropriations otherwise available to the Justice Cabinet for fiscal year 2003-2004. Such funds are hereby appropriated to support that legislation.

32. STATE POLICE

a. State/Local Emergency Phone Service Agreement: The Department of State Police may enter into agreements with the governing body of the city, county, urban-county government, charter county government, consolidated local government, or any combination thereof, to provide 911 emergency telephone service.

b. Boyd County Crime Lab: The crime lab and its operations located in Boyd County, if moved from its current location, shall be relocated within Boyd County.

c. State Police Authorized Strength: The State Police sworn officer, as defined in KRS 16.010, authorized strength is 1,070 and shall be exempt from any personnel cap imposed on other state employees.

33. JUVENILE JUSTICE

a. Juvenile Detention: Madison County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Madison County juvenile detention facility may remain open to hold juveniles from Madison County until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3) and in Part I of this Act.

b. Juvenile Detention: Clark County shall be placed in the Fayette Juvenile Detention region under the statewide detention plan. The Clark County juvenile detention facility may remain open to hold juveniles from Clark County and other counties until the state-operated facility in Fayette County opens, and the county shall receive the detention subsidy provided for in KRS 635.060(3) and in Part I of this Act.

c. Juvenile Justice Grant: Included in the General Fund appropriations in Part I, Operating Budget, Section H. Justice Cabinet, Juvenile Justice is $35,000 in fiscal year 2002-2003 and $35,000 in fiscal year 2003-2004 to support the Survivor's II Program in Fayette County. General Fund moneys provided for the Survivors II Grant shall not be taken from any moneys or grants that would otherwise be awarded to Prevention Council funds of Lexington-Fayette County nor any other Prevention Council funds and shall come from the Support Services unit of the Juvenile Justice Budget.

d. Gateway Juvenile Diversion Center and Mary Kendall Homes: All general fund appropriations provided in Part I of this Act for the Gateway Juvenile Diversion Center and Mary Kendall Homes shall be allotted and expended exclusively to these respective entities.

34. CORRECTIONS MANAGEMENT

a. Appropriation Adjustments: The General Assembly has determined that the Department of Corrections shall be permitted to adjust appropriations between and among the following appropriation units in fiscal year 2002-2003 and in fiscal year 2003-2004; community services and local facilities and adult correctional institutions. Only adjustments necessary to manage the diverse mix of inmate classifications, custody levels, probation and parole caseloads, and population increases and/or decreases shall be permitted. Any appropriations transferred or otherwise directed between and among these appropriation units shall be documented and justified in writing. No adjustments may be made except upon the prior written justification to the Interim Joint Committee on Appropriations and Revenue and written concurrence of the State Budget Director. The State Budget Director shall report such adjustments and the necessity of the adjustment to the Interim Joint Committee on Appropriations and Revenue.

b. Jailer Mental Health Screening Training: The Kentucky Commission on Services to Individuals with Mental Illness, Alcohol, and Other Drug Related Disorders, and Dual Diagnoses shall, in its annual review of the Commission plan, include in its duties the development of recommendations for identifying, treating, housing and transporting prisoners in jails and juveniles with mental illness in detention centers. Items to be reviewed shall include but not be limited to recommendations for statutory and regulatory changes, training and treatment funding, cost sharing, housing and transportation costs, appropriate treatment sites, and training requirements for local jailers and other officers of the court who may come in contact with persons incarcerated or in detention but deemed mentally ill. The Department for Mental Health/Mental Retardation, Department for Juvenile Justice and Department for Corrections shall collaborate with the Commission to recommend guidelines and practices to be implemented in regard to training local jailers and appropriate staff on identifying conditions which may require the screening of prisoners or juveniles by appropriate mental health professionals. The Commission shall submit its reports and findings to the Legislative Research Commission, to be distributed to appropriate committees, by November 1, 2002. The report shall also be provided to the Jail Standards Commission.

c. Green River Correctional Complex - Fencing: The Department of Corrections shall erect a fence around the minimum security facility at the Green River Correctional Complex.

35. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Probation and Parole Credit: Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354, or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

b. County Jail Housing Per Diem: The county jail per diem for housing state inmates shall be $24.60 upon passage of this Act.

c. Early Release of State Felons: The Governor shall not implement, through Executive Order or otherwise, an early release program for state felons upon passage of this Act.

36. ADULT CORRECTIONAL INSTITUTIONS

a. Educational Services: No General Fund moneys are provided for education services to state inmates upon passage of this Act.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

37. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to the General Administration and Support, Natural Resources, Environmental Protection, and Surface Mining Reclamation and Enforcement budget units for the purpose of employing essential positions, replacing or upgrading information technology equipment, and the replacement of vehicles. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. NOx Credits: Within ten days of the Natural Resources and Environmental Protection Cabinet's receipt of U.S. Environmental Protection Agency's approval of a revised State Implementation Plan complying with 40 C.F.R. 51.121 and authorizing the sale of NOx allowances, the Natural Resources and Environmental Protection Cabinet shall notify the Finance and Administration Cabinet. Upon such notification, the Finance and Administration Cabinet shall have the authority to execute the sale of the NOx allowances. The proceeds from the sale shall be credited to the General Fund and deposited into the State Treasury.

38. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Hazardous Waste Fund: Notwithstanding KRS 224.46-580, the Department is authorized to expend up to $25,000 from the Hazardous Waste Management Fund for the purposes of conducting an audit of the sources and amounts of income and expenditures from the fund.

39. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Surface Coal Mining Permits: The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have 30 days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

40. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

42. KENTUCKY NATURE PRESERVES COMMISSION

a. Minor Use or Development: Notwithstanding KRS 146.410 to 146.535, the Kentucky State Nature Preserves Commission may allow a minor use or development upon or near the property boundary of a nature preserve when the minor use or development results in the addition of acreage to the preserve, furthers the goal of encouraging land use adjacent to the preserve which can help protect the character of the preserve, furthers an important public purpose identified by another state or local public agency, and does not substantially or fundamentally alter the character of the preserve.

POSTSECONDARY EDUCATION

42. COUNCIL ON POSTSECONDARY EDUCATION

a. Research Challenge Trust Fund Account: The proceeds of the Endowment Match Program authorized in Part II, under the Council on Postsecondary Education budget unit, project L.1.c., shall be invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Research Challenge Trust Fund and any required matching funds may be expended.

b. Regional University Excellence Trust Fund: The proceeds of the Endowment Match Program authorized in Part II, Capital Projects Budget, under the Council on Postsecondary Education, budget unit, project L.1.d., shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities. Only the investment earnings from the endowments created or expanded with funds from the Regional University Excellence Trust Fund and any required matching funds may be expended.

c. Enrollment Growth and Retention Funding Program: The Council on Postsecondary Education (CPE) shall, by July 1, 2003, develop guidelines for the distribution of Enrollment Growth and Retention Funding Program funds that may be requested during the 2004-2006 biennial budget request process. The CPE shall develop the guidelines in collaboration with the university presidents to ensure a fair and equitable plan for distribution that promotes the implementation of the Postsecondary Education Act of 1997. The guidelines shall be presented to the Strategic Committee on Postsecondary Education (SCOPE) for prior review before the final adoption by CPE.

d. Strategic Investment and Incentive Trust Funds Interest Income: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $6,581,700 shall be transferred from Strategic Investment and Incentive Trust Funds included under these statutes and the trust funds created by 2000 Ky. Acts ch. 549, Part I, L., 56, to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes. Included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I is $100,800 in fiscal year 2002-2003 and $105,500 in fiscal year 2003-2004 for the Minority

Student Preparation Program; $187,000 in fiscal year 2002-2003 and $188,400 in fiscal year 2003-2004 for the Southern Regional Education Board Doctoral Scholars Program; $1,000,000 each year of the biennium for the Rural Innovation Program; $1,000,000 in each year of the biennium for the Knowledge-Based Economy Academic Programs; and $2,000,000 in fiscal year 2002-2003 for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program/Science and Engineering Foundation.

e. Kentucky Science and Technology Funding Program: Notwithstanding KRS 164.6027 and 164.6029, included in the General Fund and Restricted Funds appropriations to the Science and Technology Funding Program in Part I, Operating Budget, is $4,521,600 in each year of the biennium for the Experimental Program to Stimulate Competitive Research (EPSCoR) Program and the Science and Engineering Foundation; $3,000,000 in each year of the biennium for the Kentucky Research and Development Voucher Program; $750,000 in each year of the biennium for the Kentucky Commercialization Fund; $500,000 in each year of the biennium for the Regional Technology Corporations and Satellite Innovation and Commercialization Centers; and $1,000,000 in each year of the biennium for the Rural Innovation Program.

f. Lung Cancer Research Fund Interest Transfer: Notwithstanding KRS 164.476, interest earnings up to $300,000 from the Lung Cancer Research Fund may be transferred to the Agency Revenue accounts of the Council on Postsecondary Education to support the Knowledge-Based Economy Academic Program included in the Restricted Funds appropriation for the Council on Postsecondary Education in Part I, Operating Budget.

g. Science and Technology Trust Fund: Notwithstanding KRS 164.6019, 164.6027, and 164.6035, the unobligated balance of fiscal year 2001-2002 appropriations and a portion of the appropriation in fiscal year 2002-2003 and fiscal year 2003-2004 as necessary from the Council on Postsecondary Education, Science and Technology Funding Program shall be transferred to the Office of the Commissioner for the New Economy within the Cabinet for Economic Development. The Office of State Budget Director shall certify the transfer.

h. Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund accounts: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, the Council on Postsecondary Education may transfer interest earnings from the Strategic Investment and Incentive Trust Fund accounts to the Agency Revenue accounts of the Council, and expend them upon application to and approval from the State Budget Director, and reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.630.

i. Kentucky Science and Technology Corporation: Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the Commissioner for the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

j. Student Financial Aid and Advancement Trust Fund: The Council on Postsecondary Education shall transfer $750,000 in interest income from the Student Financial Aid and Advancement Trust Fund to the Kentucky Higher Education Assistance Authority in fiscal year 2002-2003 to assist in the financing of the Kentucky Educational Excellence Scholarship (KEES) Program.

k. Concept Phase Funding Pool: Notwithstanding KRS 164.6021, the funds appropriated in Part I, Operating Budget, to the Council on Postsecondary Education for the Research and Development Voucher Program may be used to fund the Concept Phase Funding Pool.

l. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center previously authorized by the General Assembly.

m. Postsecondary Education Employment Status: Notwithstanding KRS 164.225, 164.360, and 164.830, the appointment of a relative to the governing board of a public postsecondary education institution, as defined under KRS 164.001, shall not affect the employment status of any related person employed at least 36 months prior to the appointment of the relative.

n. Efficient Facilities: The General Assembly directs that the Hunt Morgan Addition and Pharmacy Building Addition endorsed for construction by the Council on Postsecondary Education in its 2002-2004 fiscal biennial budget recommendation to the General Assembly, both being designed for wet lab research and having similar requirements for support facilities that can be shared to maximize research space and operational efficiency, shall be constructed as one building.

43. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

a. Student Loan Corporation: Notwithstanding KRS 164A.240, the Kentucky Higher Education Student Loan Corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.230, provided that the proceeds of the bonds may be used for the educational loan programs and shall not be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020; provided further that the corporation may without further approval finance education loans which are not insured student loans in an aggregate principal amount not exceeding $10,000,000 from the proceeds of any bonds, notes, or lines of credit of the corporation which are primarily secured by insured student loans. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged, and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth. In addition, no bonds or notes may be issued by the corporation for the purpose of financing a nongovernmentally insured education loan pursuant to this section except upon a finding by the Governor and the Legislative Research Commission that the loans are necessary to meet the financial needs of Kentucky residents to obtain a postsecondary education; provided that the corporation may without further approval finance education loans which are not insured student loans in an aggregate principal amount not exceeding $10,000,000 from the proceeds of any bonds, notes, or lines of credit of the corporation which are primarily secured by insured student loans. In making the determination of need, the Governor and Legislative Research Commission shall consider the availability of other student assistance resources.

44. EASTERN KENTUCKY UNIVERSITY

a. Capital Renewal and Maintenance Pool: Notwithstanding the provisions of 2000 Ky. Acts ch. 549, Part II, 10., pertaining to eligible projects and matching requirements, and notwithstanding the provisions of Part II, 10., of this Act, pertaining to the matching requirement, $422,000 in bond funds out of Eastern Kentucky University's 2000-2002 Capital Renewal and Maintenance Pool allocation are reauthorized and reallocated for new construction of water lines to provide water service for the Corbin Campus.

45. KENTUCKY STATE UNIVERSITY

a. Non-Federal Matching Requirement: Included in the Restricted Funds appropriation to Kentucky State University in Part I, Operating Budget, is $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 to enable Kentucky State University to fully fund the non-federal matching requirement under the provisions of the Federal Agriculture Research, Extension, and Education Reform Act of 1998. Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, and 164.7925, interest income in the amount of $487,800 in fiscal year 2002-2003 and $502,400 in fiscal year 2003-2004 shall be transferred to Kentucky State University by the Council on Postsecondary Education.

46. UNIVERSITY OF KENTUCKY

a. Interest Income: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of $234,800 shall be transferred to the University of Kentucky from the Council on Postsecondary Education in fiscal year 2002-2003.

b. University of Kentucky Center for Rural Health: This facility shall be financed by the issuance of tax-exempt bonds by the State Property and Buildings Commission. Lease-rental payments from the University of Kentucky to the Appalachian Regional Hospital Corporation in the amount of $383,000 per year and lease-rental payments by Hazard Community College to the Appalachian Regional Hospital Corporation in the amount of $145,000 per year provide the fund source of lease-rental payment to the State Property and Buildings Commission for the purpose of providing debt service for bonds to fund the facility. It is recognized that the lease-rental payments by the University of Kentucky and by Hazard Community College to Appalachian Regional Hospital Corporation are necessary to provide the space needs of the University of Kentucky and Hazard Community College until the completion of the new building facility. Therefore, these lease-rental payments are not available for lease-rental payments to the State Property and Buildings Commission for the issuance of the tax exempt bonds to be used to finance the project until the completion of the new building. The Office for Financial Management within the Finance and Administration Cabinet shall work with the Council on Postsecondary Education to provide an interim financing program to allow for the construction of the new facility, without diversion of the lease-rental payments by the University of Kentucky and the Hazard Community College, to the Appalachian Regional Hospital Corporation, and to the State Property and Buildings Commission until such time as the new facility is completed.

c. Ovarian Cancer Screening Outreach Program: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, General Fund (Tobacco) dollars in the amount of $700,000 each fiscal year shall be transferred from the Research Challenge Trust Fund's Lung Cancer Research Program and allotted to the Ovarian Cancer Screening Outreach Program at the University of Kentucky. The Ovarian Cancer Screening Outreach Program may accept gifts, grants, and bequests in support of its mission and duties. All funds received shall be administered by the University of Kentucky through appropriate trust and agency accounts.

47. UNIVERSITY OF LOUISVILLE

a. Quality and Charity Care Trust Agreement: Notwithstanding the provisions of KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest income in the amount of $50,000 shall be transferred to the University of Louisville from the Council on Postsecondary Education in fiscal year 2002-2003 for the Quality and Charity Care Trust Agreement.

48. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

a. Postsecondary Workforce Training Program: Included in the General Fund appropriation to the Kentucky Community and Technical College System in Part I, Operating Budget, is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program. These funds shall be used for worker training programs on a nonrecurring basis and shall not be used to establish permanent Kentucky Community and Technical College program offerings. Up to $2,100,000 of the Postsecondary Workforce Training Program each year of the biennium may be transferred to the Bluegrass State Skills Corporation within the Cabinet for Economic Development upon a determination by the State Budget Director that other sources of funds are insufficient to meet the employment retention and training needs of the Commonwealth as certified by the Secretary of the Economic Development Cabinet.

b. Land Proceeds: Notwithstanding KRS 45.777, proceeds in the amount of $225,600 for the sale of KCTCS property located at Lincoln Park, 1501 Bland Street, Louisville, Kentucky 40217 to the Jefferson County Public School System shall be retained by KCTCS for Jefferson Community College.

PUBLIC PROTECTION AND REGULATION

49. BOARD OF CLAIMS

a. Notwithstanding KRS 216B.400, in fiscal year 2003-2004 examinations for reported victims of sexual assault shall be paid by the Crime Victims' Compensation Board in a manner consistent with KRS Chapter 346, at a rate determined by the Board. The Board shall reimburse the hospital or sexual assault examination facility as provided in administrative regulations promulgated by the Board.

50. KENTUCKY RACING COMMISSION

a. Notwithstanding KRS 230.374, 50 percent of the funds collected by the Kentucky Racing Commission under the provisions of KRS 230.361 to 230.373 shall be transferred to the Kentucky Racing Health and Welfare Fund, Inc., prior to the end of fiscal year 2002-2003 and fiscal year 2003-2004; however, no payments shall be made by the Commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the Commission and the Auditor of Public Accounts are satisfied that the fund is in all respects being operated for the charitable and benevolent purposes as set forth in KRS 230.374 and that no part of the funds paid to the fund by the Commission or any net earnings of the fund inure to the benefit of any private individual, director, officer, or member of the fund or any of the persons who turned over sums to the Commission representing unclaimed pari-mutuel tickets.

b. Effective July 1, 2003, fees set by 810 KAR 1:025 for individual licenses issued by the Kentucky Racing Commission shall be returned to the amounts assessed immediately prior to fiscal year 2001-2002.

51. DEPARTMENT OF INSURANCE

a. Risk-based Capital: A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with risk-based capital (RBC) requirements as follows: (1) For purposes of this subsection, risk-based capital shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with 806 KAR 38:100; (2) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows: (a) "Company Action Level RBC" means the product of two and its Authorized Control Level RBC; (b) "Regulatory Action Level RBC" means the product of one and five-tenths and its Authorized Control Level RBC; (c) "Authorized Control Level RBC" means the product of four-tenths and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and (d) "Mandatory Control Level RBC" means the product of seven-tenths and the Authorized Control Level RBC; and (3) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this paragraph and 806 KAR 38:100 and shall not be eligible to calculate its risk-based capital according to this subsection.

52. PUBLIC ADVOCACY

a. Compensatory Leave Conversion to Sick Leave: In the event that the Department of Public Advocacy has determined that a budget shortfall may occur, the Public Advocate is authorized to institute a policy to suspend payment of 50 hours of compensatory leave and convert these hours to sick leave for those Attorneys who have accumulated 240 hours of compensatory time.

53. OFFICE OF THE SECRETARY-GENERAL OPERATIONS

a. Funds lapsed in Part V in fiscal year 2002-2003 shall not be replaced through additional administrative fees assessed the agencies.

REVENUE CABINET

54. REVENUE

a. Sales Tax on Communications Services: Notwithstanding of KRS 139.505, all applicants filing on or after June 1, 2003, for the refundable credit for sales tax paid on communications services shall comply with the following: any business whose interstate communications services, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if the business's annual Kentucky gross receipts are equal to or more than $1,000,000, and the majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.

The refundable credit shall be equal only to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent of the business's Kentucky gross receipts.

To facilitate the administration of the refundable tax credit, the Revenue Cabinet shall grant eligible businesses which apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds of the tax paid on communications service shall not include any sales tax collected and paid by a communications service provider to the Cabinet.

b. Deduction for Taxes Paid to Foreign Countries: Notwithstanding KRS 141.010(11)(a), effective for taxable years beginning after December 31, 2002, the deduction for taxes paid to foreign countries is not allowable.

c. Natural Gas Distribution Services: Notwithstanding KRS 139.100, effective June 1, 2003, the furnishing of natural gas or electric distribution services or natural gas or electric transmission or transportation services shall be retail sales subject to sales and use tax except for the furnishing of those services to residential customers as defined in KRS 139.470(8).

TOURISM DEVELOPMENT CABINET

55. TAX CREDIT PROGRAM

a. Tax Credit Program: Notwithstanding KRS 148.855, the independent consulting firm shall consult with the Tourism Development Finance Authority, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the Authority, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify to the Authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

Notwithstanding KRS 148.859(1)(a), any increase in approved costs incurred by the approved company and agreed to by the Authority shall apply retroactively for purposes of calculating the carryforward for unused inducements as set forth in KRS 139.536(3) for tax years commencing on or after July 1, 2004. Notwithstanding KRS 148.859(1)(c), the term shall be ten years from the later of the date of final approval of the project or the original completion date specified in the agreement, if this completion date is within three years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement of the term and, notwithstanding KRS 148.859(1), upon request from an approved company that has completed at a minimum 50 percent of an entertainment destination center, the Authority shall grant an additional extension or change to that provided in KRS 148.859(1)(b), of up to three years, which in no event shall exceed six years from the date of final approval, to the completion date as specified in the agreement of the approved company, provided that:

(1) The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

(2) The term of the agreement shall not be extended; and

(3) The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

56. STATE FAIR BOARD

a. Bond Authority: The Kentucky State Fair Board is authorized to issue up to $52,000,000 in revenue bonds provided agency revenue can be identified in an amount sufficient to support debt service payments.

TRANSPORTATION CABINET

57. CABINETWIDE

a. Biennial Highway Construction Programs: The Secretary of Transportation is directed to produce a single document that contains two separately identified sections, as follows:

Section 1 shall detail the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program and Section 2 shall detail the Highway Preconstruction Program Plan for fiscal year 2004-2005 through fiscal year 2007-2008 as identified by the 2002 General Assembly. This document shall mirror in data type and format the fiscal year 2002-2008 Recommended Six Year Highway Plan as submitted to the 2002 General Assembly. The document shall be published and distributed to members of the General Assembly and the public within 60 days of adjournment of the 2003 Regular Session of the General Assembly.

No executive authority shall expend, or otherwise commit in any manner, available fiscal biennium 2002-2004 Road Fund resources for a project designated as a State Project in the fiscal year 2004-2005 through fiscal year 2007-2008 Highway Preconstruction Program Plan. In the event that federally funded projects contained in the enacted fiscal biennium 2002-2004 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional federal funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to assure that the Commonwealth makes full use of all available federal funds.

The Secretary of Transportation is further directed to report monthly to the Legislative Research Commission of all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

Notwithstanding KRS 176.440(2), any project additions or modifications that the 2002 General Assembly may make to the fiscal year 2002-2008 Recommended Six Year Road Plan shall carry the same force of law as projects that were included in the fiscal year 2002-2008 Recommended Six Year Road Plan as submitted by the Executive Branch.

58. AIR TRANSPORTATION

a. Bluegrass Field Airport: No appropriations to the Air Transportation Budget shall be utilized for the purpose of studying, planning, or construction of an additional runway at Bluegrass Field Airport.

b. Certified Air Carriers and Cap on Sales and Use Tax: The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the 12-month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

59. PUBLIC TRANSPORTATION

a. Federal Transit Administration Match: Included in the fiscal year 2002-2003 Restricted Fund appropriation is $1,650,000 to match Federal Transit Administration discretionary capital grants to purchase buses and vans for public transit entities. To the extent that these Restricted Funds are not necessary to match additional Federal Funds for the Federal Transit Administration discretionary capital grants for buses and vans, the Restricted Funds shall revert to the Capital Construction and Equipment Purchase Contingency Account at the close of fiscal year 2003-2004.

b. Human Services Transportation Delivery Program: Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870, 281.872, 281.873, 281.874, 281.875, 281.876, 281.877, 281.878, and 281.879.

60. HIGHWAYS

a. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional Federal Funds are provided to Kentucky and the state match appropriations have been exhausted.

b. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

c. Federal Aid Highway Funds: If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (1) Any demonstration-specific or project-specific money shall be used on the project identified; and (2) All other funds shall be used to insure that projects in the 2002-2004 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four Year Preconstruction Program.

d. Demonstration Projects: The Transportation Cabinet is authorized to select up to five design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of Transportation shall determine the nature and scope of each design/build project.

e. Prefinancing Road Projects: The Secretary is directed to develop and implement a program to address the policy of the General Assembly to expeditiously initiate and complete projects in the 2002-2004 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. The Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided. The Transportation Cabinet shall maintain a minimum Road Fund cash management target of $100,000,000. The Secretary may seek approval to spend Road Fund moneys below $100,000,000 by submitting a recommended spending plan to the Secretary of Finance and Administration Cabinet for approval. A copy of the approved spending plan shall be transmitted to the Interim Joint Committee on Appropriations and Revenue.

f. Miscellaneous Road Fund Expenditures: A turning lane shall be constructed at KY 1958 and the New Retirement Center in Clark County. The cost related to the construction of the turning lane shall be funded from Road Fund resources.

Luminaries shall be installed at South Williamson to KY 308 in Pike County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of 55th Street and US 23 in Boyd County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

A stop light shall be installed at the intersection of US 421 and US 62 in Woodford County. The cost related to the installation of the stop light shall be funded from Road Fund resources.

Two flashing school zone lights shall be installed for Fairview High School. The cost related to the installation shall be funded from Road Fund resources. The cost to operate the lights shall be the responsibility of the Boyd County Fiscal Court.

Guardrails shall be installed at the following locations: KY 32 from the Rowan/Elliott County Line to the Junction of KY 32 and KY 7; KY 1620 between MP 2 and MP 4 in Elliott County; KY 1426 between MP 8.263 and MP 8.819 in Floyd County; KY 1231 between MP 2.6 and MP 4.6 in Knott County; KY 1697 between MP 1.7 and MP 3.7 in Knott County; KY 550 between MP 16.8 and MP 18.0 in Knott County; KY 582 between MP 7.9 and MP 10.3 in Knott County; and KY 3419 between MP 9.509 and MP 12.014 in Pike County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Directional signs to the Aviation Museum of Kentucky shall be installed on US 60 near the intersection of Man-of-War and US 60 in Fayette County. The cost related to the installation of the signs shall be funded from Road Fund resources.

The Transportation Cabinet shall resurface KY 181 from MP 5.8 to MP 10.5 in Muhlenburg County. The costs related to the resurfacing of KY 181 shall be funded from the maintenance account.

The Transportation Cabinet shall resurface KY 1002 from MP 0.638 to MP 1.1 in Wolfe County. The costs related to the resurfacing of KY 1002 shall be funded from the maintenance account.

The Transportation Cabinet shall establish KY 1336 as an access point to the relocated new KY 11 in the Community of Tilton.

Spot improvements shall be made at the intersection of KY 550 and KY 1103 in Knott County to increase site distance. The cost related to the spot improvements shall be funded from Road Fund resources.

Sight distance improvements shall be made from the intersection of KY 645 and KY 581 in Lawrence County extending 2,000 feet south along KY 581 towards Paintsville. The cost related to the sight distance improvement shall be funded from Road Fund resources.

Any entrance or access used for residential purposes in existence as of February 1, 2003 off Highway 60 in Clark County northeast of Winchester shall be deemed to be a legal entrance.

The Transportation Cabinet shall extend access by permit about 1,500 feet north of KY 911 along the proposed US 41A project in Christian County.

The Transportation Cabinet shall amend the FB 2002-04 Biennial Highway Construction Plan to direct the following:

(1) Funding for project number 3-8100 in Allen County be revised to SP;

(2) Project Number 6-8100 in Bracken County be revised to read as follows: Planning Study for reconstruction of KY-10 from Brooksville to Germantown;

(3) Funding for project number 4-8100 in Breckinridge County be revised to SP;

(4) Insert project number 1-8103 in Graves County to read as follows: Scoping study for widening and reconstruction of KY 131 from KY 80 to KY 348 at Symsonia-Design-SP-$200,000-fiscal year 2002-2003;

(5) Project number 2-134 in Muhlenberg County be revised to read as follows: Construct new interchange on the Western Kentucky Parkway ($500,000 of coal severance tax money has been earmarked for this project)-Construction-SP-$3,800,000-fiscal year 2002-2003;

(6) Insert project number 2-8106 in Muhlenberg County to read as follows: Scoping Study for safety improvements on US 431 from the McLean/Muhlenberg County line to the Tennessee Border (Phase 1) and Scoping study for safety improvements on US 431 from the McLean/Muhlenberg County line to the Indiana Border (Phase 2)-Design-SP-$300,000-fiscal year 2002-2003;

(7) Project number 2-8102 in Union County to be revised to read as follows: Planning study to construct four lanes on US 60 from Sturgis to Morganfield;

(8) Funding for project number 2-8103 in Webster County be revised to SP; and

(9) Funding for project number 2-8105 in Webster County be revised to SP.

A stop light and turning lane shall be installed at US 31W at Dart Container World in Hart County. The cost related to the installation of the stop light and turning lane shall be funded from Road Fund resources.

Bloomington Road shall be resurfaced from MP 0.0 to MP 2.0 in Grayson County. The cost related to the resurfacing of the road shall be funded from Road Fund resources.

The Transportation Cabinet shall build and surface two and forty-five one hundredths miles of the Brammer Hill-Delta Road (County Road 1030) in Wayne County. The cost related to building and surfacing the road shall be funded from Road Fund resources.

The Transportation Cabinet shall repave one and six-tenths miles of the Paint Creek Road beginning at the juncture of KY 92 W and the Tacket Creek Road shall be repaved from the juncture of Sevoy Clear Creek Road South in Whitley County. The cost related to the repaving shall be funded from Road Fund resources.

Traffic lights shall be installed at the following locations: on US 60 at the Olive Hill Elementary School entrance east of Olive Hill in Carter County; South Dixie Fire Department on US 31W at Valley Station in Jefferson County; at the intersection of KY 490 and US 25 in Laurel County; at the intersection of KY 68 and Warehouse Drive in the City of Lebanon in Marion County; at the intersection of AA Highway and KY 57 in Mason County; and at the intersection of US 42 and Ridgemoor Drive in Oldham County. The cost related to the installation of the traffic lights shall be funded from the Road Fund resources.

Bridges shall be reconstructed at the following locations: Roaring Paunch Creek Bridge, off KY 1470 on Kingtown Road in McCreary County; Old Sano Road Bridge two miles north of KY 80 in Russell County; Dry Hollow Road Bridge (County Road 1213) in Wayne County; Verne Road Bridge near the junction of Verne Road with KY 1064 in Whitley County; and Keswick Road Bridge in Whitley County. The cost related to the reconstruction of the bridges shall be funded from Road Fund resources.

Guardrails shall be installed at the following locations: Green Briar Road beginning 2 miles east and ending eight miles east of KY 615 in Adair County; Milltown Road (KY 768) one and two-tenths miles north of KY 61 in Adair County; Elmore Hill Road one-tenth of a mile south of KY 70 in Casey County; Thomas Ridge Spur one-tenth of a mile east of KY 910 in Casey County; Patsy Riffe Ridge two-tenths of a mile east of KY 127 in Casey County; Dishman Springs Road in Barbourville from Helton Branch Road to Emanuel Road in Knox County; Parrot Hollow Road from MP 2.386 to MP 3.225 in Knox County; Artemus/Flat Lick Road from MP 1.1 to MP 1.336 in Knox County; on the left side of KY 1003 one mile east of KY 80 in Pulaski County; and on the left side of KY 1003 four miles east of KY 80 across Buck Creek Bridge in Pulaski County. The cost related to the installation of the guardrails shall be funded from the maintenance account.

Street signs shall be replaced throughout the City of Edgewood in Kenton County. The cost related to replacing the street signs shall be funded from Road Fund resources.

Road improvements shall be made along US 29 from the Railroad Bridge to Lexington Road in Jessamine County. The cost related to the road improvements shall be funded from Road Fund resources.

A sound barrier shall be installed on the north side of Watterson Expressway from the west side of the Newburg Interchange going 1,000 feet west.

A sound barrier shall be installed on I-64 for the St. Regis neighborhood. The cost related to the installation of the sound barrier shall be funded from Road Fund resources.

Luminaries shall be installed on KY 11 from the Main Street Intersection going north in Owsley County. The cost related to the installation of the luminaries shall be funded from Road Fund resources.

A traffic study shall be conducted of the intersection of US 60 and Carroll Road in Clark County. The cost of the study shall be funded from Road Fund resources.

Signs designating the location of the St. John's School shall be installed on US 45 in McCracken County. The cost related to the installation of the signs shall be funded from Road Fund resources.

Provide Road Fund support for the installation of the Douglas Avenue Bridge over Bacon Creek in Whitley County.

g. Location of proposed I-66: The location of proposed I-66 in the South Central Kentucky Area shall be limited to alternative highway corridors extending from the Cumberland Parkway to the Natcher Parkway north of the City of Bowling Green.

h. Toll Road Facilities: If Federal Funds become available to the state to support the retirement of toll roads debt, then each affected toll road facility within the Commonwealth shall close and all affected toll road employees shall be reassigned within the Transportation Cabinet.

i. Demonstration Project: The Transportation Cabinet shall request a waiver from the Federal Highway Administration to establish a demonstration project that uses pigmented binder materials in the construction of school crosswalks in Hardin County.

61. VEHICLE REGULATION

a. Motorcycle Education Program: Notwithstanding KRS 186.890(1) and (2), all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. No administrative costs for other programs or budget units within the Transportation Cabinet shall be deducted from the Motorcycle Safety Education Program. The Transportation Cabinet shall report biennially to the Interim Joint Committee on Appropriations and Revenue of the revenues deposited to the Fund, the expenditures incurred, and available balances. In addition, the Cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees.

62. GENERAL ADMINISTRATION AND SUPPORT

a. Adopt-A-Highway Litter Program: The Transportation and Natural Resources and Environmental Protection Cabinets may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

b. Transportation Cabinet Office Building: The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

WORKFORCE DEVELOPMENT CABINET

63 GENERAL ADMINISTRATION AND PROGRAM SUPPORT

a. Maintenance Pool: Included in the Capital Budget appropriation is Investment Income Funds totaling $395,000 in fiscal year 2002-2003 and $394,600 in fiscal year 2003-2004 for a cabinetwide maintenance pool.

64. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Kentucky Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2002-2004 fiscal biennium.

b. Area Technology Centers: General Fund dollars for operations and equipment and SEEK dollars for the state-run vocational schools are maintained at current levels.

65. DEPARTMENT FOR VOCATIONAL REHABILITATION

a. Personnel Cap: A personnel cap of 504 positions (484 full time, 19 part time, and one interim) is authorized.

b. Debt Service: Included in the General Fund appropriation is $30,000 debt service to support Bond Funds totaling $265,000 to construct a sewage treatment plant at the Carl D. Perkins Rehabilitation Center.

66. DEPARTMENT FOR EMPLOYMENT SERVICES

a. Facility Replacement and Renovation Program: The General Assembly authorizes the Department to develop and implement a Facility Replacement and Renovation Program to improve the quality of Workforce Development Cabinet facilities used by the Department and its clients, and to reduce departmental reliance on lease-rental properties.

Proceeds from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Additionally, funds received from the Reed Act distribution under Section 903(d) of the Social Security Act, as amended, may be used for the purpose of acquiring property and constructing a building and such improvements, facilities, paving, landscaping, and fixed equipment as may be required for use by the Cabinet for Workforce Development. Expenditures authorized by this provision are limited to the use of funds derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and national government, and funds received from the Reed Act distribution.

b. Operating Costs and Mobile Vehicle: Additionally, Reed Act distribution may be used for continued operating costs at the Department for Employment Services facilities as well as for the acquisition and equipping of a mobile vehicle for use in providing timely on-site deployment of services to remote locations or to meet extraordinary service requirements subject to applicable statutory and regulatory requirements of the Commonwealth.

The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet and the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Any project estimated to cost over $400,000 and any mobile vehicle costing more than $100,000 shall be reported to the Capital Projects and Bond Oversight Committee by the Secretary of the Finance and Administration Cabinet.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan contained in this Part for fiscal years 2002-2003 and 2003-2004. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance are appropriated to the Budget Reserve Trust Fund established in KRS 48.705.

2. The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of fiscal year 2002-2003, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for the Budget Reserve Trust Fund pursuant to the Plan in fiscal year 2003-2004.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2002, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for the Budget Reserve Trust Fund in fiscal year 2002-2003 pursuant to the Plan.

PART XI

PHASE I TOBACCO SETTLEMENT

This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General

Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

1. The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are to be made to the states in January and April of each year.

2. The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

3. The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

4. Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2002-2003 is $125,407,000 and in fiscal year 2003-2004 is $109,100,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. Early Childhood Development Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated for Early Childhood Development Initiatives as specified below.

b. Health Care Initiatives: Twenty-five percent of the MSA payments received in fiscal year 2002-2003, estimated to be $31,400,000, and in fiscal year 2003-2004, estimated to be $27,275,000, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

c. Agricultural Development Initiatives: Fifty percent of the MSA payments received in fiscal year 2002-2003, estimated to be $62,800,000, and in fiscal year 2003-2004, estimated to be $54,550,000, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

A. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Governor's Office of Agricultural Policy	47,688,000	39,434,000

Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is $611,200 in fiscal year 2002-2003 and $513,300 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund. Notwithstanding KRS 248.703(2)(b)2., and from the allocation provided therein, included in the above appropriation is up to $1,600,000 in fiscal year 2002-2003 and $1,600,000 in fiscal year 2003-2004 for the University of Kentucky Cooperative Extension Service to support the cost of providing a one-time bonus in each fiscal year for county extension agents in addition to any salary adjustments which may be made.

Notwithstanding KRS 248.703(2)(b)1., and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

2. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2002-03	2003-04
Debt Service	6,112,000	6,116,000

To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be transferred from those accounts to the appropriate account of the General Fund to fully fund the aggregate debt service obligation of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

3. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	2002-03	2003-04
Natural Resources	9,000,000	9,000,000

These funds are appropriated for the Environmental Stewardship Program within the Department for Natural Resources.

TOTAL AGRICULTURAL APPROPRIATIONS	62,800,000	54,550,000

B. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Governor's Office of Early Childhood Development	2,188,400	2,188,400

2. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	2002-03	2003-04
Community Based Services	7,262,800	3,581,300

Included in the above appropriation is $7,023,300 in fiscal year 2002-2003 and $3,023,300 in fiscal year 2003-2004 for the Early Childhood Development Program, and $239,500 in fiscal year 2002-2003 and $558,000 in fiscal year 2003-2004 for Child Advocacy Centers. Phase I Tobacco Settlement funds totaling $4,000,000 in fiscal year 2002-2003 shall not be expended, but shall carry forward into fiscal year 2003-2004 to sustain operations of fully implemented child care programs. These represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

3. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	18,598,800	18,155,300

Included in the above appropriation is $11,948,800 in each fiscal year for the HANDS Program; $2,200,000 in fiscal year 2002-2003 and $2,010,300 in fiscal year 2003-2004 for Healthy Start initiatives; $2,000,000 in each fiscal year for Universal Children's Immunizations; $1,200,000 in fiscal year 2002-2003 and $946,200 in fiscal year 2003-2004 for the Folic Acid Program; $1,000,000 in each fiscal year for Early Childhood Mental Health; and $250,000 in fiscal year 2003-2004 for Early Childhood Oral Health. Also included in the above appropriation is $250,000 in fiscal year 2002-2003 to be transferred to the General Fund. Additionally, $543,500 in Phase I Tobacco Settlement funds is budgeted to continue from fiscal year 2001-2002 into fiscal year 2002-2003 and from fiscal year 2002-2003 into fiscal year 2003-2004 to sustain operations of the fully implemented Healthy Start ($289,700) and Folic Acid ($253,800) Programs. These amounts represent funds from fiscal year 2000-2001 which were reserved by the Early Childhood Authority in anticipation of the reduced Phase I Tobacco Settlement payments in fiscal year 2003-2004.

Budget Unit	2002-03	2003-04
Mental Health and Mental Retardation	1,000,000	1,000,000
Children with Special Health Care Needs	1,600,000	1,600,000

Included in the above appropriation is $550,000 in each fiscal year for Universal Newborn Hearing Screening; $50,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

4. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Kentucky Higher Education Assistance Authority	557,000	750,000

Included in the above appropriation is $557,000 in fiscal year 2002-2003 and $750,000 in fiscal year 2003-2004 for Early Childhood Scholarships.

TOTAL EARLY CHILDHOOD APPROPRIATIONS	31,207,000	27,275,000

C. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. GOVERNMENT OPERATIONS

Budget Unit	2002-03	2003-04
Kentucky Agency for Substance Abuse Policy	2,574,800	2,236,600

Notwithstanding KRS 12.330, included in the above appropriation is $844,100 in fiscal year 2002-2003 and $489,300 in fiscal year 2003-2004 which shall be transferred to the Endowment Fund. This Endowment Fund shall be created as a Restricted Funds account in the state accounting system. Included in the above appropriation is $225,000 each fiscal year to be transferred to the Department for Public Health for operating costs associated with the upgrade of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) system. Included in the above appropriation is $1,500,000 in fiscal year 2002-2003 and $1,500,000 in fiscal year 2003-2004 which shall be transferred to the credit of the General Fund.

2. CABINET FOR HEALTH SERVICES

Budget Unit	2002-03	2003-04
Public Health	3,140,000	2,727,500

These funds are appropriated for the Smoking Cessation Program within the Department for Public Health.

3. POSTSECONDARY EDUCATION

Budget Unit	2002-03	2003-04
Council on Postsecondary Education	6,280,000	5,455,000

These funds are appropriated for the Lung Cancer Research Program within the Council on Postsecondary Education.

4. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	2002-03	2003-04
Department of Insurance		
General Operations	19,405,200	16,855,900

These funds are appropriated for the Kentucky Access Program.

	2002-03	2003-04
TOTAL HEALTH CARE APPROPRIATIONS	31,400,000	27,275,000

	2002-03	2003-04
TOTAL PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	125,407,000	109,100,000

PART XII

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

		2002-03	2003-04
General Fund - Tobacco		125,407,000	109,100,000
General Fund	6,845,805,500	7,067,386,100	
Restricted Funds		3,595,173,900	3,669,246,800
Federal Funds	5,533,885,800	5,394,917,200	
Road Fund		1,115,289,400	1,131,926,500
Subtotal		17,215,561,600	17,372,576,600

CAPITAL PROJECTS BUDGET

		2002-03	2003-04
General Fund	100,000	400,000	
Restricted Funds		771,665,816	234,171,675
Federal Funds	79,719,000	8,866,000	
Bond Funds	341,102,000	10,602,992	
Road Fund		5,840,000	8,284,000
Agency Bonds	156,750,000	0	
Capital Construction Surplus		2,540,000	319,000
Investment Income		18,594,000	15,100,000
Deferred Maintenance		957,000	0
Other Funds	108,918,000	2,700,000	
Emergency Repair, Replacement and Maintenance		0	500,000
Capital Construction Contingency		800,000	0
Subtotal		1,486,985,816	280,943,667

TOTAL-STATE/EXECUTIVE BUDGET

		2002-03	2003-04
General Fund - Tobacco		125,407,000	109,100,000
General Fund	6,845,905,500	7,067,786,100	

Restricted Funds		4,366,839,716	3,903,418,475
Federal Funds	5,613,604,800	5,403,783,200	
Road Fund		1,121,129,400	1,140,210,500
Bond Funds	341,102,000	10,602,992	
Agency Bonds	156,750,000	0	
Capital Construction Surplus		2,540,000	319,000
Investment Income		18,594,000	15,100,000
Deferred Maintenance		957,000	0
Other Funds	108,918,000	2,700,000	
Emergency Repair, Replacement, and Maintenance		0	500,000
Capital Construction Contingency		800,000	0
TOTAL FUNDS		18,702,547,416	17,653,520,267

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

The Committee Amendment No. 4 to the Second Committee Substitute to **HB 269** is as follows:

HB 269, Lottery Corporation

Part III

On page 182, line 14, delete "6,000,000" and insert "3,000,000";

On page 182, line 17, delete "6,000,000" and insert "3,000,000 but less than $6,500,000 shall be transferred to the General Fund, and any amount in excess of $6,500,000".

The Committee Amendment No. 5 to the Second Committee Substitute to **HB 269** is as follows:

HB 269, Governor's Office for Technology

On page 208, delete lines 25 through 27 and insert the following in lieu thereof

" b. Electronic Health Network – Feasibility Study: The Interim Joint Committee on Health and Welfare of the Legislative Research Commission is directed to study the feasibility of implementing an electronic health network in the Commonwealth. The Telehealth Board is directed to assist in the study by using its expertise to develop, at the direction of and in consultation with the committee, a work plan to provide the committee with the information necessary to carry out this study. The Telehealth Board shall prepare a draft feasibility study work plan to present to the Interim Joint Committee at its October 2003 meeting. The Interim Joint Committee on Health and Welfare shall meet on its regularly scheduled day in October to receive and consider the draft feasibility study work plan. Upon approval of the draft feasibility study work plan by the committee, the Interim Joint Committee on Health and Welfare shall report its findings and recommendations to the Legislative Research Commission. The report shall be made no later than December 1, 2003. The Interim Joint Committee on Health and Welfare may prepare legislation for consideration by the 2004 General Assembly.

The study shall include a review of various models and comparative business cases. Each model considered shall be capable of supporting administrative transactions and clinical electronic health applications, including the capability to integrate an electronic Medicaid management information system. The study shall include an analysis of projected costs and how those would be allocated among various payors, options for financing the network, projected returns on investments, a timetable for those returns, any proposed subscriptions or transactions fees, and a timetable for implementation. The study shall include the analysis of at least one model implemented in phases.

The board may appoint an electronic health committee made up of persons who are not members of the board and who have expertise in health informatics, health insurance, computer technology, and physician practice management to provide input into the work plan, study, and reports provided to the Interim Joint Committee on Health and Welfare. To assist with the feasibility study, the Telehealth Board administered by the Governor's Office for Technology may receive federal and voluntarily contributed private funds."; and

On page 209, delete lines 1 and 2.

The Committee Amendment No. 6 to the Second Committee Substitute to **HB 269** is as follows:

HB 269, On page 2, line 1, by deleting "1,681,000" and inserting "1,931,000" in FY 2002-2003 and adjusting subsequent subtotals and totals accordingly;

On page 8, line 27, by deleting "19,464,900" in FY 2003-2004 and inserting "19,484,900";

On page 9, line 3, by deleting "25,168,700" in FY 2003-3004 and inserting "25,188,700" and by adjusting subtotals and totals accordingly;

On page 28, by deleting lines 19 through 21 in their entirety;

On page 54, line 10, by deleting "13,222,000" and inserting "14,972,000";

On page 64, line 7, by deleting "11,243,500" in FY 2002-2003 and "11,243,500" in FY 2003-2004 and inserting "11,527,900" in FY 2002-2003 and "11,752,100" in FY 2003-2004;

On page 64, line 10, by deleting "14,027,300" in FY 2002-2003 and "11,539,700" in FY 2003-2004 and inserting "14,311,700" in FY 2002-2003 and "12,048,300" in FY 2003-2004 and adjusting subtotals and totals accordingly;

On page 83, between lines 26 and 27 by inserting the following:

" c. New Economy High-Tech Investment/Construction Pool
Restricted Funds 10,000,000 5,000,000

The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High Tech Construction Pool." and adjusting subsequent subtotals and totals accordingly;

On page 93, after line 19, insert the following:

" o. High Voltage Electrical Distribution System
Restricted Funds 10,500,000" (FY 2002-03);

On page 94, line 21, by deleting "3,000,000" and inserting "3,800,000";

On page 96, line 20, by deleting "902,600" and inserting "920,600";

On page 102, line 19, after "Hall" by inserting "Renovation";

On page 102, line 20, by deleting "Agency Bonds" and inserting "Restricted Funds" and by deleting "1,750,000" and inserting "2,500,000";

On page 125, line 18, by deleting "kc." and inserting "kb.";

On page 125, line 20, by deleting "kd." and inserting "'kc.";

On page 132, line 21, by deleting "11,320,000" and inserting "7,000,000";

On page 132, after line 23, by inserting:

" m. Materials Characterization Center
Restricted Funds 3,000,000
n. Student Parking Structure
Restricted Funds 10,000,000" (FY 2002-03);

On page 164, after line 3, by inserting the following and renumbering accordingly:

" 288. Owsley County Fiscal Court - Sewer Lines
Restricted 250,000" (FY 2002-2003);

On page 166, after line 26, by inserting:

"Rockcastle County
323. Reauthorize "Match for Appalachia
Community Initiative" and Redirect
to Rockcastle County Industrial Authority
for Land Acquisition and Job Creation or
Expansion
(Restricted Funds - $245,000)"

and renumbering subsequent items accordingly;

On page 170, line 26, after "7." by deleting the remainder of that line and line 27;

On page 171, by deleting lines 1 through 5;

On page 172, by deleting line 18 and inserting "Council on Postsecondary Education "Fire/ Life Safety/ Infrastructure Agency Bond Pool and the Renovations/ Infrastructure/ New Construction Agency Bond Pool";

On page 172, line 19, by deleting "Maintenance Pool";

On page 174 after line 20, by inserting the following:

"16. It is the intent of the General Assembly that the Council on Postsecondary Education, in consultation with the conference of presidents, identify projects for funding from the Council's Agency Bond Pool(s). The highest priority should be afforded those projects which address the Commonwealth's commitment to the Partnership agreement with the Office for Civil Rights, student housing fire safety, and other life safety projects. Any unused authority should be used to address renovations, infrastructure, and new facilities. The Council on Postsecondary Education shall report disbursements from the Agency Bond Pool to the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Education, the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee.";

On page 182, line 5, after "2002" by inserting "or 2003";

On page 187, line 7, by deleting "calendar year 2002 and";

On page 188, line 2, after "KRS 45.229", by inserting ", except General Fund amounts which are appropriated for fiscal year 2003-2004";

On page 188, line 10, after "1995." by inserting "The Governor shall direct all agencies of the Executive Branch, including constitutional officers, as to the number to be reduced in each agency.";

On page 188, line 12, after "2002." by inserting "The Governor shall direct all agencies of the Executive Branch, including constitutional officers, as to the number to be reduced in each agency.";

On page 188, line 27, by deleting "for" and inserting "relating to";

On page 189, line 3, by deleting "such" and "as";

On page 189, line 10, after "not", by inserting "expend or";

On page 191, line 7, after "3." insert "Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of two and seven-tenths percent is provided in fiscal year 2002-2003 on the base salary or wages of each eligible state employee on their anniversary date.";

On page 191, line 14, delete "$11,200,000" and insert "$11,490,000";

On page 195, between lines 7 and 9, by inserting the following:

"1. Office of the Governor 250,000

Agency Revenue Funds" (FY 2002-2003) and by renumbering and adjusting totals as necessary;

On page 197, line 17, by deleting "314.456" and inserting "314.027 and 314.161";

On page 206, line 5, by deleting "$6,916,450,000" and inserting "$6,989,900,000";

On page 206, line 6, by deleting "$7,149,750,000" and inserting "$7,158,000,000";

On page 230, between lines 6 and 7, by inserting the following:

" c. Funds Transfer: The Cabinet for Families and Children shall transfer a total of $4,000,000 in Restricted Funds in fiscal year 2003-2004 to the Department for Medicaid Services to expand the Supports for Community Living Program.";

On page 231, between lines 21 and 22, by inserting the following:

" b. Funds Transfer: The Cabinet for Families and Children shall transfer a total of $4,000,000 in Restricted Funds in fiscal year 2003-2004 to the Department for Medicaid Services to expand the Supports for Community Living Program." and renumber subsequent sections accordingly;

On page 244, line 15, after "$300,000", by deleting "each fiscal year" and inserting "in fiscal year 2002-2003";

On page 275, line 1, after "funds" by inserting "in excess of those appropriated in this Act"; and making all necessary adjustments to subtotals and totals and numbering of divisions, subdivisions, items, and projects to reflect changes required by this amendment and all other adopted committee and floor amendments.

Report of Committee

The Committee on Rules reported that **HJR 16** has been posted for passage in the Orders of the Day for February 18, 2003.

Calendar

HB 303, 41, 372, 19, 26, 79, 80, 99, 110, 137, 147, 272, 299, 312, 355, HCR 22, HB 50, 74, 158, 208, 229, 258, 283, 288, 298, 357, 406, 27, 56, 136, 319, 352, 353, 361, 362, 363, HJR 116, HB 11, 15, 36, 64, 114, 185, 239, 245, 255, 262, 292, 304, 310, HJR 78, 90, 94, 97, 110, 112, HB 119, 280, 305, 391, HCR 84, 85, 86, and **106** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the House be in recess for Majority and Minority Caucus meetings. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 107, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Belcher moved the adoption of Floor Amendment No. 1 to **HB 107**. Agreed.

Representative Belcher moved that **HB 107**, as amended, be passed.

On the roll call the vote was: **Yeas 54, Nays 32**. (See February 14, 2003, roll call on **HB 107** - Appendix.)

HB 107, as amended, was passed and the title agreed to.

Representative Belcher moved that the vote by which **HB 107**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 267 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 267** be passed.

On the roll call the vote was: **Yeas 87, Nays 1**. (See February 14, 2003, roll call on **HB 267** - Appendix.)

HB 267 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 267** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 139, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative De. Butler moved the adoption of the Committee Substitute to **HB 139**. Agreed.

Representative De. Butler moved that **HB 139**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 0**. (See February 14, 2003, roll call on **HB 139** - Appendix.)

HB 139, by way of Committee Substitute, was passed and the title agreed to.

Representative De. Butler moved that the vote by which **HB 139**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 4** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 14, 2003, roll call on **HB 4** - Appendix.)

HB 4 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 4** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 317 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 317** be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See February 14, 2003, roll call on **HB 317** - Appendix.)

HB 317 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 317** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 28 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 28** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 14, 2003, roll call on **HB 28** - Appendix.)

HB 28 was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 28** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the rules be suspended for the Introduction of Bills and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 506, by Representative Dw. Butler: AN ACT relating to timber.

HB 507, by Representatives Gray and Stumbo: AN ACT relating to improving waterfront-based economic opportunity in the Tennessee-Tombigbee Inland Waterway System through Action Inc., and making an appropriation therefor.

HB 508, by Representative J. Arnold: AN ACT relating to nondriver photo identification cards.

HB 509, by Representative Fischer: AN ACT relating to structured settlements.

HB 510, by Representatives L. Clark, Hoffman, Meeks, Jenkins, Brinkman, Wilkey, Thomas, Riggs, Sims, De. Butler, Marzian, Horlander Damron, DeWeese, Crimm, Richards, P. Clark, and Riner: AN ACT relating to economic development.

HB 511, by Representative Adkins: AN ACT relating to motorboat manufacturers and dealers.

HB 512, by Representative Graham: AN ACT relating to charter county governments.

HB 513, by Representative Graham: AN ACT relating to training for local elected officials.

HCR 143, by Representative Burch: A CONCURRENT RESOLUTION urging the Cabinet for Health Services to continue support for the administration of the HIV/AIDS Advisory Council and to implement wherever possible the Council's recommendations.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Licensing and Occupations: **HB 450, 462, 471, HCR 126**

Natural Resources: **HJR 140**

State Government: **HB 183**

Motions, Petitions, and Communications

Representative Stumbo moved that **HB 407** be reassigned to the Committee on Judiciary. Agreed.

Representative Stumbo moved to waive the posting requirement on **HJR 140**. Agreed.

Representative Stumbo moved that **HB 498** be reassigned to the Committee on Banking and Insurance. Agreed.

Representative Stumbo moved that **HB 269, HJR 82,** and **HJR 83** be taken from the Committee on Rules and posted for passage in the Orders of the Day for Tuesday, February 18, 2003. Agreed.

Representative Stumbo moved that **HB 481** be reassigned to the Committee on Licensing and Occupations. Agreed.

Floor Amendments

Floor Amendment No. 2 Title to **HB 258**, by Representative S. Lee:

HB 258, Amend the title to read as follows:

"AN ACT relating to public notification on the Internet.".

Floor Amendment No. 1 to **HB 258**, by Representative S. Lee:

HB 258, On page 2, after line 17, add the following:

"Section 2. KRS 160.463 is amended to read as follows:

The school board of each public school system in any county having 300,000 or more inhabitants shall direct its superintendent to publish, in full, annually,~~[in the newspaper of the largest general circulation in the county,]~~ the annual financial statements of the school system audited by certified public accountants or an accountant approved by the State Department of Education. Each system's financial statements shall be prepared and presented on a basis consistent with *this section and Sections 3, 4, 5, and 6 of this Act*~~[that of the other systems]~~.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Each local board of education shall direct the school finance officer to prepare and publish annually the annual financial statement of the school district of funds collected, received, held, and disbursed during the fiscal year. The financial statement shall be published one (1) time only and within sixty (60) days of the expiration of each fiscal year.

(2) The board of education may elect to prepare and publish the annual financial statement in one of the following forms:

(a) The financial statement may be published in a newspaper that meets the qualifications of Section 4 of this Act to publish advertisements in a publication area in which the local school district is geographically located. The content of the published financial statement may take the form of:

1. A complete itemized, sworn statement published in the newspaper stating the total amount of funds collected and received during the fiscal year from each individual source and the total amount of funds disbursed during the fiscal year to each individual payee and the purpose for which the funds were expended;

2. A nonitemized, sworn statement published in the newspaper showing only total amounts of funds collected, received, and disbursed during the fiscal year. The advertisement shall state the locations and addresses where a printed copy of the complete itemized version of the financial statement is available for public inspection, including the school district's Internet address, as provided in subsection (3) of this section. The published advertisement shall be no smaller than ten (10) column inches in the qualified newspaper; or

3. A separate printed advertisement or document containing a complete itemized, sworn financial statement and other information of public interest concerning the board of education and school activities that is distributed as an enclosure or insert in the qualified newspaper. The enclosure or insert need only be distributed within the geographic area of the school district.

(b) In lieu of a newspaper publication, a complete itemized version of the annual financial statement may be delivered by the U. S. Postal Service to each residence within the publication area when the cost of the newspaper publication exceeds the cost of postage, supplies, and reproduction of the publication. A board of education that elects to use this method of advertisement shall forward one (1) copy of its financial statement to the Kentucky Department of Local Government.

(3) The complete itemized version of the annual financial statement shall be available for public inspection electronically on the school district's Internet web site where it shall remain available until the publication of the next fiscal year's annual statement. The school district's main Web page shall have an identified link to the complete itemized financial statement. The complete itemized version shall be available in printed copy at the public library and its branches throughout the district, in the public area of the main office of each school in the district, and in the public area at the central office of the board of education. It shall be available at each location for a period of at least thirty (30) days following publication as provided in this section.

(4) Only the totals of amounts paid for public utility bills and to each individual as salary or commission shall be shown in the financial statement.

(5) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food service. The local board of education shall have accessible a factual list of individual salaries for public inspection and the local board shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under Section 4 of this Act to publish advertisements for the school district, which newspaper may then publish as a news item the individual salaries of school or county employees.

(6) The finance officer shall include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the fiscal year, showing the balance, if any, of funds to the credit of the officer making the statement.

(7) Promptly after the publication is made, the finance officer shall file a written or printed copy of the advertisement with proof of publication in the office of the county clerk of the county and with the Auditor of Public Accounts. Promptly after the publication is made, the finance officer shall also file one (1) copy of the financial statement with the Kentucky Department for Local Government.

(8) The publisher of the newspaper is entitled to receive payment for each advertisement at a rate per column inch, computed as or published no larger than nine (9) point type on ten (10) point leading. The rate shall not exceed the lowest rate paid by advertisers for comparable matter in the same publication.

SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) If an advertisement for a publication area is to be published in a newspaper, the publication shall be made in a newspaper that meets the following requirements:

(a) It shall be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains its principal office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a second-class mailing permit issued for that office. A newspaper published outside of Kentucky shall not be eligible to carry advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper published in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

(b) It shall be of regular issue and have a bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty (50) weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding two (2) year period. A newspaper meeting all the criteria to be of regular issue, except publication in the area for the immediately preceding two (2) year period, shall be deemed to be of regular issue if it is the only paper in the publication area and has a paid circulation equal to at least ten percent (10%) of the population of the publication area. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent (50%) of its published price, and is paid for by not less than fifty percent (50%) of those to whom distribution is made; and

(c) It shall bear a title or name, consist of not less than four (4) pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content shall be at least twenty-five percent (25%) of the total column space in more than one-half (1/2) of its issues during any twelve (12) month period.

(d) If, in a publication area, there is more than one (1) newspaper which meets the above requirements, the newspaper having the largest bona fide paid circulation as shown by the average number of paid copies of each issue as shown in its published statement of ownership filed on October 1 for the publication area shall be the newspaper where advertisements required by law to be published shall be carried.

(e) For the purposes of this section and Sections 2, 3, 5, and 6 of this Act, publishing shall be considered as the total recurring processes of producing the newspaper, embracing all of the included contents of reading matter, illustrations, and advertising enumerated in paragraphs (a) through (d) of this subsection. A newspaper shall not be excluded from qualifying for the purposes of legal publications as provided in this chapter if its printing or reproduction processes take place outside the publication area.

(2) (a) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If the qualified newspaper publishes a zoned edition at least once a week that is distributed to regular subscribers within a specific geographic region of the newspaper's publication area, any advertisement required by law to be published in the publication area may be published in the zoned edition distributed in that area.

(b) If, in any school district, there is no newspaper meeting the requirements of this section for publishing advertisements for that school district, any advertisements required to be published for the school district or for

any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a school district which extends into more than one (1) county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each separate publication area shall be published in a newspaper qualified under this section to publish advertisements for the area.

SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

The board of education shall publish in a qualified newspaper the school district budget for the succeeding fiscal year that has been approved by the Kentucky Board of Education as provided in KRS 160.470.

SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, a local board of education shall not make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than twenty thousand dollars ($20,000) without first making newspaper advertisement for bids.

(2) The procedures on price contracts set forth in KRS 156.076 shall not be available to the school district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of KRS 156.076.

(3) The requirement to advertise bids in accordance with subsection (1) of this section shall not apply in an emergency if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the commissioner of education.

Section 7. KRS 156.076 is amended to read as follows:

The *commissioner of education*[~~chief state school officer~~] shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the Division of Material and Procurement Services *in accordance with Section 6 of this Act*. Any board of education, after advertising for bids, may award contracts if the *commissioner of education*[~~chief state school officer~~] certifies that the bid offers supplies and equipment which meet the standards and specifications fixed by the Kentucky Board of Education and that the bid price is lower than that established by the price contract agreement. If supplies and equipment that meet the specifications of the contracts awarded by the Division of Material and Procurement Services or a federal, local, or cooperative agency are available for purchase elsewhere, a board of education may purchase those supplies and equipment without advertising for bids. However, prior to making the purchases, the board of education shall obtain certification from:

(1) The Department of Education for technology components defined in the master plan for education technology for which standards have been established by the Kentucky Board of Education. The department shall certify that the items to be purchased meet or exceed, at a lower cost, the specifications of the components of the original equipment of manufacturers currently holding Kentucky education technology system price contracts; and

(2) The district's finance officer for supplies and equipment other than that described in subsection (1) of this section. He shall certify that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, the local school district's bid, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the price contract agreement or available through the bidding process and the price does not exceed two thousand five hundred dollars ($2,500).

Section 8. KRS 157.630 is amended to read as follows:

Bonds of the commission shall be sold in such form and in such manner as the commission deems appropriate in accordance with prevailing market conditions. If the bonds are sold on the basis of sealed bids or proposals, the "publication area," as that term is used in *Section 4 of this Act*[~~KRS Chapter 424~~], shall not be deemed to be the area within which the office of the commission is situated, but shall be deemed to be the "publication area" of the board of education executing the lease. If the bonds are sold on the basis of sealed bids or proposals, the sale shall be publicly advertised by means of a notice *describing what is to be sold, the time and place of the sale or for receipt of bids, and any special terms of the sale*[~~conforming to the provisions of KRS 424.140~~], and the same shall be published at least one (1) time, at least seven (7) days in advance of the date set forth for opening bids, in a daily newspaper having bona fide general circulation throughout the Commonwealth. If such publication is made, it shall be sufficient for publication in the "publication area" to be made only one (1) time, at least seven (7) days in advance of the date set forth for the opening of bids. If a copy of the sale notice be delivered or transmitted in good faith to the qualified newspaper of the "publication area" in time for publication in an issue thereof published seven (7) days or more in advance of the date set forth for the opening of bids, and with direction for publication therein, any failure of such newspaper to make publication as directed shall not invalidate the sale of the bonds by the commission on the designated date, nor require postponement or cancellation thereof.

Section 9. KRS 160.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 160.250 shall be fined not more than two hundred dollars ($200).

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten ($10) nor more than fifty dollars ($50).

(3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400 shall be fined not less than one hundred ($100) nor more than one thousand dollars ($1,000) for each offense, and the violation is grounds for revocation of his certificate.

(4) Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty ($50) nor more than one hundred dollars ($100), and shall be subject to removal from office.

(5) The Kentucky Board of Education may withhold funds allotted under KRS 157.350 from any local district which violates subsection (3) of KRS 160.380 in the amount of one thousand dollars ($1,000) per violation.

(6) In addition to penalties listed in this section, any local district which violates subsection (3) of KRS 160.380 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(7) Any person who violates Sections 2, 3, 4, 5 or 6 of this Act shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of Sections 2, 3, 4, 5 or 6 of this Act shall, for each such failure, be subject to a forfeiture of not less than fifty ($50) dollars nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once, in a civil action brought by any citizen residing in the school district for which the officer serves. The costs of all proceedings, including a reasonable fee for the attorney of the citizen bringing the action, shall be assessed against the unsuccessful party.

Section 10. KRS 424.110 is amended to read as follows:

As used in KRS 424.110 to 424.370:

(1) "Publication area" means the city, county, district, or other local area for which an advertisement is required by law to be made. An advertisement shall be deemed to be for a particular city, county, district, ***except a county or independent public school system,*** or other local area if it concerns an official activity of the city, county, district, or other area or of any governing body, board, commission, officer, agency, or court thereof, or if the subject of the advertisement concerns particularly the people of the city, county, district, or other area;

(2) "Advertisement" means any matter required by law to be published.

(3) "Zoned edition" means a newspaper edition published at least once a week, distributed in a specific geographic region of the newspaper's circulation area, and containing reporting and advertising of interest to subscribers in that geographic region.

Section 11. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class or a consolidated local government, a county containing such a city or consolidated local government, a public agency of such a city, consolidated local government, or county, or a joint agency of such a city, consolidated local government, and county,~~[or of a school district of such a city, consolidated local government, or county,]~~ and excepting officers of a city of the second class or an urban-county government, every public officer of any~~[school district,]~~ city, consolidated local government, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, consolidated local government, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city of the sixth class shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee and the purpose for which the funds were expended.

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including but not limited to road department, jails, solid waste, public safety, and administrative personnel.

(4) ~~[The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including but not limited to administrative, maintenance, transportation, and food service. The local board of education and]~~The fiscal court shall have accessible a factual list of individual salaries for public scrutiny and~~[the local board and the fiscal court]~~ shall furnish by mail a factual list of individual salaries of its

employees to a newspaper qualified under KRS 424.120 to publish advertisements[~~ for the district~~], which newspaper may then publish as a news item the individual salaries of[~~ school or~~] county employees.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) The officer shall, except in a city electing to publish its audit in lieu of the financial statement in accordance with KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts. Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department for Local Government.

(7) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of any municipally owned electric, gas, or water system may elecf to satisfy the requirements of subsection (6) of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district as the case may be, the statement of revenue and expenditures from such audit, together with the statement that the audit report is available for inspection at the offices of the utility; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(8) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection (6) of this section by publishing an audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040(7).

Section 12. KRS 424.260 is amended to read as follows:

(1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for materials, supplies except perishable meat, fish, and vegetables, equipment, or for contractual services other than professional, involving an expenditure of more than twenty thousand dollars ($20,000) without first making newspaper advertisement for bids.

(2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than twenty thousand dollars ($20,000), the fiscal court requirement shall prevail.

(3)[~~ (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Division of Material and Procurement Services or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.~~

~~(b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.~~

~~(4)~~] This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

(4)[~~(5)~~] The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

Section 13. KRS 424.990 is amended to read as follows:

Any person who violates any provision of KRS 424.110 to 424.370 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of KRS 424.220, 424.230, 424.240, [~~424.250, ~~]424.290 or 424.330 shall, for each such failure, be subject to a forfeiture of not less than fifty ($50) dollars nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once, in a civil action brought by any citizen of the city, county or district for which the officer serves. The costs of all proceedings, including a reasonable fee for the attorney of the citizen bringing the action, shall be assessed against the unsuccessful party.

Section 14. The following KRS section is repealed:

424.250 School district budget.".

Floor Amendment No. 6 to the Second Committee Substitute to **HB 269**, by Representative Bather:

HB 269, Kentucky State University

Part I

On page 58, line 1, delete "22,412,400" in the fiscal year 2002-03 column and insert "22,560,400"; and

On page 58, line 5, delete "50,359,700" and insert "50,507,700"; and

On page 62, line 5, delete "1,110,089,900" and insert "1,110,237,900"; and

On page 62, line 8, delete "3,310,954,700" and insert "3,311,102,700";

Floor Amendment No. 6 to the Committee Substitute to **HB 242**, by Representative Lindsay:

HB 242, On page 9, line23, delete "*eighteen (18) years of age or older,*";

On page 24, line 17, delete "*eighteen (18) years of age or older,*".

Floor Amendment No. 5 to the Second Committee Substitute to **HB 269**, by Representative Bather:

HB 269, Medicaid

Benefits

Part IX

On page 41, delete lines 26 and 27;

on page 42, delete lines 1 through 3; and

on page 240, delete lines 21 through 24, and insert:

"n. Supports for Community Living Waiver: The additional $3,800,800 in Restricted Funds support and $8,822,300 in Federal Funds support for an additional 250 Supports for Community Living slots in fiscal year 2003-04 shall also be made available for any Home and Community Based waiver program within the Department for Medicaid Services."

Floor Amendment No. 1 to the Committee Substitute to **HB 287**, by Representative Bather:

HB 287, On page 18, after line 6, insert the following:

"*(5) Nothing in this section shall be interpreted as preventing the enforcement of ordinances, regulations or resolutions of political subdivisions of the Commonwealth pertaining to civil rights.*"

Floor Amendment No. 2 to the Committee Substitute to **HB 287**, by Representative Damron:

HB 287, On page 18, line 24, by deleting "*the annual percentage rate of*".

Floor Amendment No. 3 to the Committee Substitute to **HB 265**, by Representative Burch:

HB 265, On page 1, line 10, by deleting "*and*"; and

On page 1, after line 10, by inserting the following:

"*(5) "Human cloning with the intent to create a legislator" means implanting or attempting to implant the product of nuclear transplantation involving the nucleus of a human somatic cell of a legislator into a uterus;*"; and

On page 2, line 1, by deleting "*(5)*" and by inserting "*(6)*" in lieu thereof; and

On page 2, line 6, after "*child*" by inserting "*or human cloning with the intent to create a legislator*"; and

On page 2, line 9, after "*child*" by inserting "*or human cloning with the intent to create a legislator*".

Floor Amendment No. 4 to **HB 251**, by Representative Kerr:

HB 251, On page 15, line 4, after "*(1)*" by inserting "*(a)*"; and

On page 15, after line 7, by inserting:

"*(b) Attorneys duly admitted to practice law in Kentucky and in good standing with the Kentucky Bar Association are exempt from the provisions of this subtitle with regard to title insurance licensing and appointment requirements. If an attorney or attorneys own a corporation or other legal entity which is doing business as a title insurance agency other than an entity engaged in the practice of law, the agency shall be licensed and appointed as a title insurance agent.*".

Floor Amendment No. 1 to the Committee Substitute to **HB 355**, by Representative Vincent:

HB 355, On page 1, after the enacting clause, by deleting all text in its entirety, and inserting in lieu thereof:

"Section 1. KRS 199.462 is amended to read as follows:

(1) *Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption*~~[Before any applicant to provide foster care home services to a minor may be approved]~~, the Cabinet for Families and Children shall*:*

(a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of State Police and the Federal Bureau of Investigation; or

(b) Request from the Justice Cabinet records of all conviction information for the applicant. The Justice Cabinet shall furnish the information to the Cabinet for Families and Children and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

(3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Families and Children may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.

(4) The Cabinet for Families and Children shall promulgate an administrative regulation to implement this section.".

Floor Amendment No. 4 to the Committee Substitute to **HB 294**, by Representative Moberly:

HB 294, Court Operations and Administration

Part I

On page 1, line 19, before "Funds", by inserting the following:

"Funds are included to provide a two and seven-tenths percent salary adjustment in fiscal year 2002-2003 for nonelected court personnel.";

On page 1, line 21, after "personnel." by inserting the following:

"Included are funds to provide a two and seven-tenths percent salary adjustment for justices and judges in fiscal year 2002-2003."; and

On page 1, line 23, after "2003-2004.", by inserting the following:

"Also included are funds to provide a two and seven-tenths percent salary adjustment for the salaries of circuit clerks in fiscal year 2002-2003.".

Floor Amendment No. 1 to the Committee Substitute to **HB 171**, by Representative Jenkins:

HB 171, On page 2, line 9, after the period "*.*", by inserting "*Documentation shall be limited to a statement that an employee was receiving services on a specified date and shall not include the medical or mental health records of the employee. Nothing in this section provides a right to an employer to access the medical or mental health records of an employee without the written consent of the employee.*"; and

On page 4, line 16, after the period "*.*". by inserting "*Documentation shall be limited to a statement that an employee was receiving services on a specified date and shall not include the medical or mental health records of the employee. Nothing in this section provides a right to an employer to access the medical or mental health records of an employee without the written consent of the employee.*".

Floor Amendment No. 8 to the Second Committee Substitute to **HB 269**, by Representative Riggs:

HB 269, Office of the Secretary

Economic Development

On page 26, line 7, by deleting "1,380,300" in FY 2003-04 and inserting in lieu thereof "2,750,000"; and

On page 26, line 9, by deleting "5,993,100" in FY 2003-04 and inserting in lieu thereof "7,363,100" and by adjusting subsequent totals; and

On page 27, between lines 8 and 9 by inserting

"Included in the above General Fund appropriation is $1,370,000 in fiscal year 2003-2004 for debt service for new bonds."; and

On page 83, between lines 26 and 27, by inserting the following:

" c. Rupp Arena Renovation
Bond Funds 15,000,000" (FY 2003-04).

Floor Amendment No. 7 to the Second Committee Substitute to **HB 269**, by Representative Jenkins:

HB 269, Support Education Excellence in Kentucky (SEEK) Program

Part IX

On page 221, after line 9, by inserting the following:

" Any local school district that has a negotiated salary schedule for fiscal year 2003-2004, ratified by the local board of education and the union representing certified staff before February 1, 2003, shall be exempt from this provision provided the average cost-of-living adjustment exceeds $1,080 per certified staff member."

Floor Amendment No. 9 to the Second Committee Substitute to **HB 269**, by Representative Moberly:

HB 269, Secretary of State

Part I

On page 4, on line 27, delete the "4,360,100" in FY 2002-03 and insert "2,260,100", and adjust totals and subtotals accordingly;

On page 5, delete lines 3 through 9;

On page 5, line 10, delete the words, "for the purposes specified in the enabling legislation.";

Part IX

On page 209, delete lines 19 through 27;

On page 210, delete lines 1 through 12.

Board of Elections

Part I

On page 5, line 16, delete "1,281,200" in FY 2002-03 and "1,188,400" in FY 2003-04 and insert "1,367,900" in FY 2002-03 and "1,367,900" in FY 2003-04 accordingly;

On page 5, line 19, insert the following language before "Notwithstanding":

"State matching funds required to access Federal Funds made available by Congress under the Help America Vote Act of 2002 shall be deemed a necessary government expense and are hereby appropriated to the Board of Elections in fiscal year 2003-2004 upon approval of the State Budget Director."; and

Part IX

On page 210, delete lines 13 through 20.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 28, Representative McKee

HB 40, Representative S. Lee

HB 107, Representative Farmer

HB 174, Representative Gooch

HB 214, Representative Vincent

HB 243, Representative Westrom

HB 348, Representatives S. Lee and Westrom

HB 379, Representative Pullin

HB 385, Representatives Crimm, DeWeese, and Fischer

HB 412, Representative T. Turner

HB 452, Representative Crimm

HCR 84, Representative Denham

HCR 122, Representative Hoffman

HJR 3, Representative Wilkey

Announcements

The following meetings were announced:

Majority Caucus: Upon recess, Supreme Court Chambers

Minority Caucus: Upon recess, Room 360

Labor and Industry Committee: Tuesday, February 18, 2003, Noon, Room 125

Licensing and Occupations Committee: Tuesday, February 18, 2003, Noon

State Government Committee: Tuesday, February 18, 2003, Noon, Room 131

Natural Resources and Environment: Special Meeting, Tuesday, February 18, 2003, noon, Capital Annex

Health and Welfare Committee: Tuesday, February 18, 2003, Upon adjournment

Appropriations and Revenue Committee: Tuesday, February 18, 2003, 11 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Tuesday, February 18, 2003.

The motion that the House adjourn until 2 p.m., Tuesday, February 18, 2003, was adopted by voice vote.

TUESDAY, FEBRUARY 18, 2003

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Randy Hollis, Christ Apostolic Church, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of Friday, February 14, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 514, by Representatives Hoffman and Webb: AN ACT relating to jail reports.

HB 515, by Representative J. Thompson: AN ACT relating to the payment and collection of taxes.

HB 516, by Representative Pullin: AN ACT relating to plumbing.

HB 517, by Representative Nesler: AN ACT relating to estheticians.

HB 518, by Representative Higdon: AN ACT relating to the taxation of cigarettes.

HJR 144, by Representative Ballard: A JOINT RESOLUTION naming a bridge in honor of Dudley Riley.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 504, 507, 510**

Health and Welfare: **HCR 143**

Judiciary: **HB 505, 509**

Local Government: **HB 512, 513**

Natural Resources and Environment: **HB 506**

Seniors, Military Affairs, and Public Safety: **SB 46, 47**

Transportation: **HB 508, 511**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 293,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 293, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" ***and "sales price" mean***[~~means~~] the total amount ***or consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented,***[~~of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail,"~~] valued in money, whether received in money or otherwise, without any deduction ***for***[~~on account of~~] any of the following:

(a) The ***retailer's*** cost of the property sold[~~. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax~~

~~with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property~~];

(b) The cost of the materials used, labor or service cost, interest[~~ paid~~], losses, ***all costs of transportation to the retailer, all taxes imposed on the retailer,*** or any other expense ***of the retailer***;

(c) ***Charges by the retailer for any services necessary to complete the sale***[~~The cost of transportation of the property prior to its sale to the purchaser~~];[~~ or~~]

(d) ***Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing; and***

(e) Any amount for which credit is given to the purchaser by the retailer, other than credit for property traded when the property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale[~~Any charge for bundled transactions, where goods and services are sold as a single package for one (1) price~~].

(2) ***"Gross receipts" and "sales price" shall not include***[~~The total amount of the sale or lease or rental price includes all of the following~~]:

(a) ***Discounts, including cash, term, or coupons that are not reimbursed by a third party, and that are allowed by a retailer and taken by a purchaser on a sale***[~~Any services that are a part of the sale~~];

(b) ***Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser***[~~All receipts, cash, credits, and property of any kind~~];

(c) ***Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or***

(d) The amount charged for labor or services rendered in installing or applying the property or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser[~~Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale~~].

[~~(3) "Gross receipts" do not include any of the following:~~

~~(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);~~

~~(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;~~

~~(c) The price received for labor or services used in installing or applying the property sold;~~

~~(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;~~

~~(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;~~

~~(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17);~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243;~~

~~(h) Amounts received for communications services utilized in providing a prepaid calling arrangement as defined in KRS 139.160.~~

~~(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.~~]

Section 2. KRS 139.100 is amended to read as follows:

(1) "Retail sale"[~~ or "sale at retail"~~] means ***any***[~~:~~

~~(a) 1. A~~] sale***, lease, or rental*** for any purpose other than resale***, sublease, or subrent*** in the regular course of business of tangible personal property[~~, or~~

~~2. The furnishing of the facilities and services mentioned in subsection (2) of this section;~~

~~(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery~~

~~shall include the retail selling price of the property in his gross receipts.~~

~~(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:~~

~~(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;~~

~~(b) The furnishing of sewer services;~~

~~(c) The sale of admissions, except those taxed under KRS 138.480;~~

~~(d) The furnishing of communications services, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, to a service address in this state, regardless of where those services are billed or paid, when the communications service:~~

~~1. Originates and terminates in this state;~~

~~2. Originates in this state; or~~

~~3. Terminates in this state;~~

~~(e) The furnishing of mobile telecommunications services as defined in 4 U.S.C. sec. 124 to a customer with a service address in this state.~~

~~(3) For the purposes of this chapter, "communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics, or any similar medium or method now in existence or later devised. "Communications service" includes but is not limited to local telephone services, long-distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile communications service, and Internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, Internet protocol, or other similar means. "Communications service" does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:~~

~~(a) Information services;~~

~~(b) Internet access;~~

~~(c) Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. However, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;~~

~~(d) The sale of directory and other advertising and listing services;~~

~~(e) The sale of one-way paging services;~~

~~(f) Billing and collection services provided to another communications service provider; or~~

~~(g) Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the Federal Cable Act of 1996.~~

~~(4) For the purposes of this chapter, "service address" means:~~

~~(a) The location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of maritime systems, air-to-ground systems, third number and calling card calls, service address means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;~~

~~(b) In the case of a communications service, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and~~

~~(c) In the case of mobile telecommunications service as defined in 4 U.S.C. sec. 124, the service address shall be the place of primary use as defined and determined under 4 U.S.C. secs. 116 to 126~~].

Section 3. KRS 139.110 is amended to read as follows:

(1) "Retailer" ***means***[~~includes~~]:

(a) Every ***person engaged in the business of making retail sales***[~~seller who makes any "retail sale" or "sales at~~

~~retail,"~~] or ***furnishing***[~~who furnishes~~] any services[~~ and facilities~~] included in ***Section 7 of this Act***[~~KRS 139.100, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others~~];

(b) Every person engaged in the business[~~ of making sales for storage, use or other consumption or in the business~~] of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption;

(c) Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

(d) Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during ***the***[~~such~~] meeting.

(2) When the cabinet determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of ***the***[~~such~~] dealers, distributors, supervisors or employers, the cabinet may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Section 4. KRS 139.120 is amended to read as follows:

(1) "Sale" means, the furnishing of any services[~~ and facilities~~] included in ***Section 7 of this Act and***[~~KRS 139.100 or,~~] any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, and includes:

(a)[~~(1)~~] The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for ***purchasers***[~~consumers~~] who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting;

(b)[~~(2)~~] A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;

(c)[~~(3)~~]A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the ***purchaser***[~~customer~~].

(2) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to purchase the property or extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1). "Lease or rental" shall not include:

(a) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; and

(c) Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property; and

These definitions shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law.

Section 5. KRS 139.140 is amended to read as follows:

"Seller" includes every person engaged in the business of selling tangible personal property or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax***, and every person engaged in making sales for resale***.

Section 6. KRS 139.160 is amended to read as follows:

(1) "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses***, regardless of the method of delivery,*** and includes natural, artificial and mixed gas, electricity, water, ***steam, and prewritten computer software.***

(2) "Prewritten computer software" means:

(a) Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more "prewritten computer software" programs or portions thereof does not cause the combination to be other than "prewritten computer software."

(b) Software designed and developed by the author or other creator to the specifications of a specific purchaser

when it is sold to a person other than the original purchaser.

(c) Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser. When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made. In the case of modified or enhanced prewritten software, if there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement, then the modification or enhancement shall not constitute "prewritten computer software."[~~ and prepaid calling arrangements. For the purposes of this chapter, the term "prepaid calling arrangements" means any right to purchase communications service, which must be paid in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed. "Prepaid calling arrangements" includes, but is not limited to, prepaid cards and prepaid accounts which are decremented as calls take place.~~]

Section 7. KRS 139.200 is amended to read as follows:

[~~For the privilege of making "retail sales" or "sales at retail,"~~]A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts[~~ of any retailer~~] derived from*:*

(1) [~~"~~]Retail sales*, regardless of the method of delivery,*[~~" or "sales at retail"~~] made within this Commonwealth*; and*

(2) The furnishing of the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions except those taxed under KRS 138.480;

(d) Communications service to a service address in this state, other than mobile telecommunications services as defined in Section 8 of this Act, regardless of where those services are billed or paid, when the communications service:

1. Originates and terminates in this state;

2. Originates in this state; or

3. Terminates in this state; and

(e) Mobile telecommunications services as defined in Section 8 of this Act, to a purchaser whose place of primary use is in this state[~~on and after July 1, 1990~~].

SECTION 8. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

As used in Sections 7, 23, and 29 of this Act:

(1) "Air-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) "Call-by-call basis" means any method of charging for communications services where the price is measured by individual calls.

(3) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(4) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to local telephone services, long-distance telephone services, telegraph services, teletypewriter services, prepaid calling services, postpaid calling services, private communication services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile telecommunications service, and Internet telephony involving telephone service in which messages originate or terminate over a public switched telephone network but are transmitted, in part, using transmission control protocol, Internet protocol, or other similar means.

(b) "Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:

1. Information services;

2. Internet access;

3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;

4. The sale of directory and other advertising and listing services;

5. The sale of one-way paging services;

6. Billing and collection services provided to another communications service provider; and

7. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996.

(5) "Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the communications service, but only as it applies to the sourcing of the sale of communications services as provided in Section 23 of this Act. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area.

(6) "Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications.

(7) "End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity.

(8) "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).

(9) "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7).

(10) "Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider.

(11) "Post-paid calling service" means a communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the communications service. A post-paid calling service includes a communication service that would be a prepaid service except that it is not exclusively a communications service.

(12) "Prepaid calling service" means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(13) "Private communication service" means a communications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels.

(14) (a) "Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(b) If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

(c) If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use.

Section 9. KRS 139.210 is amended to read as follows:

(1)[~~ The taxes herein imposed shall be collected by the retailer from the consumer.~~

~~(2)~~] Except as provided in subsection (3) of this section, the tax *shall be* required to be collected by the retailer from the *purchaser. If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount. The tax*[~~consumer~~] shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(2)[~~(3)~~] The cabinet may relieve certain retailers from the provisions of subsection *(1)*[~~(2)~~] of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. *If the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.*

(3)[~~(4)~~] The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(4)[~~(5)~~] The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 10. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 ***or required to be collected under Section 17 of this Act*** or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

Section 11. KRS 139.230 is amended to read as follows:

[~~The cabinet is authorized to prepare suitable brackets of prices for the collection of the taxes imposed by this chapter in order~~]To eliminate fractions of one cent ($0.01), and ***to insure***[~~so~~] that the aggregate collections of taxes by a retailer, so far as may be practicable, shall be equal to six percent (6%) of gross receipts or sales price, as the case may be***, the tax shall be computed by applying the six percent (6%) rate to the sales price carried to the third decimal place and rounded to the nearest cent by eliminating any fraction less than one-half of one cent ($0.005) and increasing any fraction of one-half of one cent ($0.005) or over to the next higher cent***.

Section 12. KRS 139.240 is amended to read as follows:

(1) Every person presently engaged or desiring to engage in or conduct business as a ***retailer or*** seller within this state shall file with the cabinet an application for a permit for each place of business.

(2) Every application for a permit shall:

  (a) Be made upon a form prescribed by the cabinet;

  (b) Set forth the name under which the applicant transacts or intends to transact business and the location of ***the***[~~his~~] place or places of business; ***and***

  (c) Set forth[~~ such~~] other information as the cabinet may require.

(3) The application shall be signed by:

  (a) The owner, if he or she is a natural person;

  (b) A member or partner, if the entity is an association, limited liability company, limited liability partnership, or partnership;

  (c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or

  (d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, specifically authorized by and acting on behalf of an owner, an association, a partnership, a limited liability company, a limited liability partnership, a corporation, or other business entity.

(4) A written signature shall not be required if the applicant registers electronically.

Section 13. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the ***duty to collect the taxes imposed by Section 7 of this Act and KRS 139.310,***[~~sales tax~~] it shall be presumed that all gross receipts ***and all tangible personal property sold by any person for delivery in this state*** are subject to the tax until the contrary is established. The burden of proving ***the contrary***[~~that a sale of tangible personal property is not a "retail sale" or "sale at retail"~~] is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270[~~ or 139.410~~];

(2) Purchased through a properly executed certificate of exemption in accordance with ***Section 14 of this Act***[~~KRS 139.490~~];[~~ or~~]

(3) Purchased according to regulations of the Revenue Cabinet governing a direct pay authorization***; or***

(4) Purchased under a form issued pursuant to Section 24 or 25 of this Act.

Section 14. KRS 139.270 is amended to read as follows:

(1) The resale certificate ***or certificate of exemption*** relieves the ***retailer or*** seller from the burden of proof only if taken in good faith from a person who***,***[~~:~~

  ~~(a) Is engaged in the business of selling tangible personal property;~~

  ~~(b) Holds the permit provided for in KRS 139.250; and~~

  ~~(c)~~] at the time of purchasing the tangible personal property***:***[~~,~~]

  (a) Indicates ***an***[~~his~~] intention to sell it in the regular course of business by executing the resale certificate***; or***

  (b) Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.

  This relief from liability does not apply to a retailer or seller who fraudulently fails to collect the tax or solicits

purchasers to participate in the unlawful claiming of an exemption.

(2) "Good faith" shall be demonstrated by the ***retailer or*** seller if ***the retailer or seller***[~~he~~]:

(a) Accepts a properly completed resale certificate ***or certificate of exemption; and***[~~;~~]

(b) Maintains a file of ***the***[~~such~~] certificate in accordance with KRS 139.720[~~; and~~

~~(c) Determines that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to the purchaser's business address. The seller is also relieved if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose~~].

(3) If the cabinet later finds that the ***retailer or*** seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status ***or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose***, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 15. KRS 139.280 is amended to read as follows:

(1) The ***resale*** certificate shall:

(a) Be signed by and bear the name and address of the purchaser;

(b) Indicate the number of the permit issued to the purchaser;

(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.

(2) The certificate shall be substantially in ***a***[~~such~~] form as the cabinet may prescribe.

(3) A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.

Section 16. KRS 139.290 is amended to read as follows:

(1) If a ***retailer or seller***[~~purchaser~~] who gives a ***resale*** certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be taxable to the ***retailer or seller***[~~purchaser~~] as of the time the property is first used by ***the retailer or seller***[~~him~~], and the sales price of the property to ***the retailer or seller***[~~him~~] shall be deemed the measure of the tax.[~~ Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser. ~~]

(2) If the sole use of the property ***by the retailer*** other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the ***retailer***[~~purchaser~~] shall include in[~~ his~~] gross receipts the amount of the rental charged rather than the sales price of the property[~~ to him~~].

(3) If a retailer sells tangible personal property before making any use thereof, other than retention, demonstration, or display while holding it for sale in the regular course of business, the retailer may take a deduction of the purchase price of the property if, with respect to its purchase, the retailer has reimbursed the vendor for the sales tax or has paid the use tax. If a deduction is taken by the retailer, no refund or credit shall be allowed to the vendor with respect to the sale of that property.

Section 17. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state ***shall***[~~and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable,~~] collect the tax ***imposed by***[~~levied under~~] KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or

(e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer.

Section 18. KRS 139.350 is amended to read as follows:

(1) A retailer ***may deduct as a bad debt the amount***[~~is relieved from liability to collect use tax which shall become due and payable subsequent to June 30, 1960, insofar as the measure of the tax is represented by accounts which have been~~] found to be worthless and charged off for income tax purposes ***provided the retailer is reporting and remitting the tax on the accrual basis. The retailer may take the deduction on the return for the period during which the bad debt is written off as uncollectable in the retailer's books and records and is eligible to be charged off for income tax purposes. For purposes of this section, "charged off for income tax purposes" includes the charging off of unpaid balances due on accounts determined to be uncollectable, or declaring as uncollectable the unpaid balance due on accounts if a retailer is not required to file federal income tax returns.***

(2) In determining the basis for calculating bad debt recovery, the definition of "bad debt" as provided in 26 U.S.C. sec. 166 shall be used, except "bad debt" shall not include financing charges or interest, sales or use taxes charged on the purchase price, uncollectable amounts on property that remains in the possession of the retailer until the full purchase price is paid, expenses incurred in attempting to collect any debt, or repossessed property.

(3) Nothwithstanding KRS 131.183, any deduction taken for bad debts shall not include interest.

(4) A retailer may obtain a refund of tax on the amount of bad debt that exceeds the amount of taxable sales for the period during which the bad debt is written off. Notwithstanding KRS 131.183, the refund claim must be made within four (4) years from the due date of the return on which the bad debt could first be claimed[~~ If the retailer has previously paid the amount of the tax, he may, under rules and regulations prescribed by the cabinet, take as a deduction the amount found worthless and charged off for income tax purposes~~].

(5) If any ***bad debt***[~~such~~] accounts are thereafter in whole or in part collected by the retailer, the amount[~~ so~~] collected shall be included in the[~~ first~~] return filed ***for the period in which the***[~~after such~~] collection ***is made*** and the amount of the tax ***due shall be***[~~thereon~~] paid with the return.

(6) If a retailer's filing responsibilities have been assumed by a certified service provider as provided by KRS 139.795, the certified service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.

(7) For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first to the price of the property or service and the sales tax on it, proportionally, and secondly to interest, service charges, and any other charges.

Section 19. KRS 139.380 is amended to read as follows:

The tax required to be collected by the retailer under KRS 139.340 from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales. ***If taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount and shall be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales check or other proof of sales.***

Section 20. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property[~~ the gross receipts from the sale of which, or the storage, use, or other consumption of~~] which[~~,~~] this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state

of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the ***retailer***[~~seller~~] via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the ***retailer***[~~seller~~] and the ***retailer***[~~seller~~] maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale[~~ are not subject to the sales or use tax~~]. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the ***retailer's***[~~seller's~~] own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~] or an agent or representative of the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or whether the F.O.B. is ***retailer's***[~~seller's~~] shipping point or ***purchaser's***[~~buyer's~~] destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The ***retailer***[~~seller~~] shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the ***retailer's***[~~seller's~~] own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~] or an agent or representative of the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or whether the F.O.B. is ***the retailer's***[~~seller's~~] shipping point or ***the purchaser's***[~~buyer's~~] destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific ***purchaser***[~~customer~~] specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The ***retailer***[~~seller~~] shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;[~~ and~~]

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or is an agent or representative of the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or whether the F.O.B. is ***the retailer's***[~~seller's~~] shipping point or ***purchaser's***[~~buyer's~~] destination***;***

(17) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(18) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(19) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(20) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid;

(21) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and

(22) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.

Section 21. KRS 139.472 is amended to read as follows:

(1) *Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of*~~["Prescription medicine" shall mean and include]~~:

(a) *A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;*~~[Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and which is:~~

~~1. Prescribed for the treatment of a human being by a person authorized to prescribe the medicines and dispensed on prescription by a registered pharmacist in accordance with law; or~~

~~2. Commonly recognized as a substance or preparation prescribed and dispensed as provided in subparagraph 1. of this paragraph and intended to be distributed as a free sample to or from a physician's office; and]~~

(b) Medical oxygen*, including high pressure cylinders, cryogenic tanks, or oxygen concentrators, tubes, masks, and similar items required for the delivery of oxygen to the patient* when purchased by *an individual*~~[the patient]~~ for private use*;*

(c) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;

(d) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;

(e) Prosthetic devices purchased by any healthcare provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;

(f) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser; and

(g) Crutches, walkers, wheelchairs, wheelchair lifting devices, and wheelchair repair and replacement parts purchased by an individual for private use.

(2) *Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable*~~["Prosthetic devices and physical aids" for the purpose of this section shall mean and include artificial devices prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual; artificial limbs, artificial eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular disabled person; crutches, walkers, hospital beds, wheelchairs, wheelchair repair and replacement parts, and wheelchair lifting devices for the use of invalids and crippled persons; colostomy supplies, urostomy supplies, ileostomy supplies, insulin and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics]~~.

(3) *As used in this section:*

(a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in Section 22 of this Act, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, and is:

1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or

2. Intended to affect the structure or any function of the human body.

(b) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug.

(c) 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

a. Artificially replace a missing portion of the body;

b. Prevent or correct a physical deformity or malfunction; or

c. Support a weak or deformed portion of the body.

2. "Prosthetic device" shall not include any of the following:

a. Corrective eyeglasses;

b. Contact lenses; or

c. Dental prosthesis[~~The terms "sale at retail," "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage, or consumption of prescription medicine, prosthetic devices, and physical aids~~].

Section 22. KRS 139.485 is amended to read as follows:

(1) Except as otherwise provided, the terms[~~ "sale at retail,"~~] "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of food *and food ingredients* for human consumption.

(2) The term "food" *and food ingredients* as used in subsection (1) of this section *means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not*[~~shall~~] include:

(a) *Alcoholic beverages*[~~Cereals and cereal products~~];

(b) *Tobacco*[~~Milk and milk products~~];

(c) *Candy*[~~Meat and meat products~~];

(d) *Dietary supplements*[~~Fish and fish products~~];

(e) *Soft drinks; and*[~~Eggs and egg products;~~]

(f) *Prepared food*[~~Vegetables and vegetable products;~~

~~(g) Fruit and fruit products, including fruit juices;~~

~~(h) Sugar, sugar products and sugar substitutes; other than candy, confectionery and chewing gum;~~

~~(i) Coffee and coffee substitutes;~~

~~(j) Tea, cocoa and cocoa products; other than candy and confectionery;~~

~~(k) Spices, condiments, and salt;~~

~~(l) Oleomargarine~~].

(3) *For purposes of this section*[~~The term "food" as used in subsection (1) of this section shall not include~~]:

(a) *"Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume*[~~Candy, confectionery and chewing gum~~];

(b) *"Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco*[~~Spirituous, malt, or vinous liquors~~];

(c) *"Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include:*

1. Any preparation containing flour; or

2. Any item requiring refrigeration[~~Cocktail mixes~~];

(d) *"Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:*

1. Contains one (1) or more of the following dietary ingredients:

a. A vitamin;

b. A mineral;

c. An herb or other botanical;

d. An amino acid;

e. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;

2. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

3. Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36[~~Soft drinks, sodas, and similar beverages~~];

(e) *"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume*[~~Medicines, tonics, vitamins, and other dietary supplements~~];

(f) *"Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment*[~~Water, mineral water, carbonated water and ice~~];

(g) "*Prepared food" means:*

1. Food sold in a heated state or heated by the retailer;

2. Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food borne illnesses; or

3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

(4) Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines, nonmechanical self-service vending systems, or by street vendors shall be subject to the tax imposed by this chapter[~~Pet foods;~~

~~(h) Meals served on or off the premises of the retailer;~~

~~(i) Food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer;~~

~~(j) Food sold by retailers who ordinarily sell for consumption on or near the premises of the retailer even though the food is sold on a "take out" or "to go" order and is actually bagged, packaged, or wrapped and taken from the premises of the retailer;~~

~~(k) Food sold through vending machines;~~

~~(l) Food sold by street vendors; and~~

~~(m) Food sold through nonmechanical self-service vending systems~~].

SECTION 23. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of the retailer's obligation to pay or collect and remit the taxes imposed by Section 7 of this Act and 139.310, the retailer shall source the retail sale, excluding sales of communications service as follows:

(a) Over the counter. When the purchaser receives tangible personal property or service at a business location of the retailer, the sale is sourced to that business location.

(b) Delivery to a specified address. When a purchaser or purchaser's donee receives tangible personal property or service at a location specified by the purchaser, the sale is sourced to that location.

(c) Delivery address unknown. When the retailer of a product does not know the address where the tangible personal property or service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:

1. The address of the purchaser;

2. The billing address of the purchaser; or

3. The address from which the tangible personal property was shipped; from which the computer software was delivered electronically or was first available for transmission by the retailer; or from which the service was provided.

(2) The retailer shall source communications services as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's or other purchaser's place of primary use.

(b) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from it's service provider, where the system used to transport the signals is not that of the retailer.

(c) A sale of prepaid calling service shall be sourced to the customer's or other purchaser's place of primary use, provided that if the sale is of a prepaid calling service that is also a mobile telecommunications service and the retailer does not know the address where the service is received, the sale shall be sourced to the first of the following that is known by the retailer:

1. The address of the customer available from the business records of the retailer;

2. The billing address of the customer;

3. The address from which the service was provided; or

4. The location associated with the mobile telephone number.

(d) A sale of a private communication service shall be sourced as follows:

1. Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.

2. Service where all customer termination points are located entirely within one (1) jurisdiction or levels of *jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.*

3. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are not separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

4. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(e) A sale of other communications services sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.

(3) Nothing included in subsections (1) or (2) of this section shall affect the obligation of a purchaser to remit use tax pursuant to KRS 139.310.

SECTION 24. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter to the contrary, a business purchaser that is not a holder of a direct pay permit that knows at the time of the purchase of a digital good, computer software delivered electronically, or a service that is a digital good that the item purchased will be concurrently available for use in more than one (1) jurisdiction shall deliver to the retailer, in conjunction with the purchase, a Multiple Points of Use (MPU) Exemption Form disclosing this fact.

(1) Upon receipt of the MPU Exemption Form, the retailer shall be relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(2) A purchaser delivering the MPU Exemption Form may use any reasonable and consistent uniform method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(3) The MPU Exemption Form shall remain in effect for all future sales by the retailer to the purchaser, except as to a subsequent sale that has a specific apportionment that is governed by subsection (2) of this section and the facts existing at the time of the sale, until it is revoked in writing.

(4) A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form to the retailer. A direct-pay permit holder shall follow the provisions of subsection (2) of this section in apportioning the tax due on a digital good or service or computer software delivered electronically that will be concurrently available for use in more than one (1) jurisdiction.

SECTION 25. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the retailer in conjunction with the purchase either a Direct-Mail Form or information to show the jurisdictions in which the direct-mail is delivered to recipients.

(a) Upon receipt of the Direct-Mail Form, the retailer shall be relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser shall pay or remit the applicable tax on a direct-pay basis. A Direct-Mail Form shall remain in effect for all future sales of direct mail by the retailer to the purchaser until it is revoked in writing.

(b) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the retailer shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the retailer is relieved of any further obligation to collect the tax on any transaction where the retailer has collected the tax pursuant to the delivery information provided by the purchaser.

(2) If the purchaser of direct mail does not have a direct-pay permit and does not provide the retailer with either a Direct-Mail Form or delivery information, as required by subsection (1) of this section, the retailer shall collect the tax according to the address from where the direct mail was shipped. Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state in which the direct mail is delivered.

(3) If a purchaser of direct mail provides the retailer with documentation of direct-pay authority, the purchaser shall not be required to provide a Direct-Mail Form or delivery information to the retailer.

(4) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material. "Direct-mail" does not include multiple items of printed material delivered to a single address.

Section 26. KRS 139.550 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in *a*[~~such~~] form[~~ as~~] the cabinet may prescribe.

(2) For purposes of the sales tax*,* a return shall be filed by every *retailer or* seller. For purposes of the use tax*,* a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the

storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. ***If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.***

(3) Returns shall be signed by the person required to file the return or by ***a***[~~his~~] duly authorized agent but need not be verified by oath.

(4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under[~~ such~~] rules as the cabinet shall provide for the efficient collection of the sales tax on[~~ such~~] sales.

(5) The return shall show the amount of the taxes for the period covered by the return and other information the cabinet deems necessary for the proper administration of this chapter.

Section 27. KRS 139.735 is amended to read as follows:

(1) The Revenue Cabinet shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270[~~, 139.410, 139.490,~~] and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.

(2) It shall be mandatory upon the Revenue Cabinet during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270[~~, 139.410, 139.490,~~] and 103 KAR 31.030.

Section 28. KRS 139.770 is amended to read as follows:

(1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain such information as the cabinet may require.

(3) No taxpayer ***or certified service provider as provided by KRS 139.795*** shall be entitled to a refund or credit of the taxes paid pursuant to the provisions of this chapter where the taxes have been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of taxes collected from the purchaser are refunded to ***the purchaser***[~~him~~] by the taxpayer ***or certified service provider as provided by KRS 139.795*** who paid the taxes to the State Treasury.

(4) Where applicable, the amount of any claim for refund or credit shall be reduced by the amount deducted by the taxpayer ***or certified service provider as provided by KRS 139.795*** pursuant to KRS 139.570 at the time the taxes were paid to the State Treasury.

Section 29. KRS 139.775 is amended to read as follows:

(1) As it relates to the taxation under this chapter of mobile telecommunications services as defined in ***Section 8 of this Act,*** [~~4 U.S.C. sec. 124:~~

~~(1)~~]the provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.

(2) If a ***communications services or mobile telecommunications services*** customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall***, within four (4) years of the date of the bill,*** notify the home service provider about the alleged error, in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer[~~ within four (4) years of the customer's notification~~], or explain to the customer in writing ***why***[~~how~~] the bill was correct and why a refund or credit will not be made.

(3) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (2) of this section.

(4) Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.

SECTION 30. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) For all sales and use tax transactions where the purchaser believes that tax has been charged in error, a cause of action against the retailer for the over-collected sales or use taxes does not accrue until the purchaser has provided notice to the retailer and the retailer has had sixty (60) days to respond. The notice to the retailer shall contain the information necessary to determine the validity of the inquiry.

(2) In connection with a purchaser's inquiry to a retailer regarding over-collected sales or use taxes, a retailer shall be presumed to have a reasonable business practice, if in the collection of the sales or use tax the retailer:

(a) Uses either a certified service provider, certified automated system, or a proprietary system as provided by KRS 139.795; and

(b) Has remitted all taxes collected less any deductions, credits or collection allowances.

(3) Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.

Section 31. KRS 139.785 is amended to read as follows:

(1) The cabinet is authorized and directed to enter into the agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the agreement, the cabinet is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(2) The cabinet is further authorized to take other actions reasonably required to implement the provisions set forth in KRS 139.780 to 139.795. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative agreement. ***Notwithstanding the provisions of KRS Chapter 13A, the Cabinet may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.***

(3) The secretary of the cabinet or the secretary's designee***, the state budget director or the director's designee, and two (2) legislators are***[~~is~~] authorized to represent this state before the other states that are signatories to the agreement. ***One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House.***

Section 32. KRS 139.735 is amended to read as follows:

(1) The Revenue Cabinet shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270[~~, 139.410, 139.490,~~] and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.

(2) It shall be mandatory upon the Revenue Cabinet during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270[~~, 139.410, 139.490,~~] and 103 KAR 31.030.

Section 33. KRS 139.990 is amended to read as follows:

(1) Any person who executes:

(a) A resale certificate for property in accordance with KRS 139.270[~~ or 139.410,~~] knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;

(b) An exemption certificate for property in accordance with ***Section 14 of this Act***[~~KRS 139.490~~], knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner; or

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030;

(d) A MPU exemption form or Direct Mail Form issued not in accordance with the provisions of Sections 24 and 25 of this Act.

shall be guilty of a Class B misdemeanor.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.

(3) Any person who violates any of the provisions of KRS 139.220,[~~ 139.370,~~] 139.380, ***or*** 139.700[~~, or 139.750~~] shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the regulations promulgated by the cabinet[~~ under KRS 139.230~~] shall be guilty of a Class B misdemeanor.

(5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 34. KRS 325.445 is amended to read as follows:

A certified public accountant licensed in the Commonwealth under the provisions of this chapter, or an attorney licensed to practice law in the Commonwealth of Kentucky, with express authorization of a client may act as an agent of that client to:

(1) Complete, sign, and file an application for a seller's permit to do business as provided in KRS 139.240;

(2) Complete, sign, and file an application for a seller's permit for any out-of-state retailer who is not required to file for the collection of use tax under KRS 139.340 but is seeking to do so on a voluntary basis as provided by KRS 139.700;

(3)[~~ Complete, sign, and file an application for a general business license as provided for in KRS 154.12-219. A certified~~

~~public accountant acting under this subsection shall remit the license fee required under KRS 154.12-219 with the application and may seek reimbursement from the applicant for that fee;~~

~~(4)~~] Complete, sign, and file an application for a certificate of registration to sever or process coal in this state as required by KRS 143.030; and

(4)[~~(5)~~] Complete, sign, and file an application for an employer's withholding, corporation income, and corporation license tax registration numbers as may be required by KRS 131.130.

Section 35. The following KRS sections are repealed:

139.130 "Sales price."
139.370 Prohibited advertising.
139.400 Presumption that property sold is for use in this state.
139.410 Resale certificate.
139.420 Contents and form of certificate.
139.460 Presumption as to property delivered outside state to Kentucky resident -- How controverted.
139.490 Purchaser's liability for using property in other than exempt way after certification.
139.532 Applicability of sales or use tax to gross receipts from various sources.
139.560 Contents of monthly return.
139.690 Condition of refund on ground that use tax is not applicable.
139.750 Deliveryman's duty to collect use tax -- Exceptions.
154.12-219 General business license.
154.99-012 Penalties for Subchapter 12.

Section 36. This Act takes effect January 1, 2004.

The Committee Substitute to **HB 293** is as follows:

HB 293, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" ***and "sales price" mean***[~~means~~] the total amount ***or consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented,***[~~of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail,"~~] valued in money, whether received in money or otherwise, without any deduction ***for***[~~on account of~~] any of the following:

(a) The ***retailer's*** cost of the property sold[~~. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property~~];

(b) The cost of the materials used, labor or service cost, interest[~~ paid~~], losses, ***all costs of transportation to the retailer, all taxes imposed on the retailer,*** or any other expense ***of the retailer***;

(c) ***Charges by the retailer for any services necessary to complete the sale***[~~The cost of transportation of the property prior to its sale to the purchaser~~];[~~ or~~]

(d) ***Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing; and***

(e) Any amount for which credit is given to the purchaser by the retailer, other than credit for property traded when the property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale[~~Any charge for bundled transactions, where goods and services are sold as a single package for one (1) price~~].

(2) ***"Gross receipts" and "sales price" shall not include***[~~The total amount of the sale or lease or rental price includes all of the following~~]:

(a) ***Discounts, including cash, term, or coupons that are not reimbursed by a third party, and that are allowed by a retailer and taken by a purchaser on a sale***[~~Any services that are a part of the sale~~];

(b) ***Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the***

purchaser[~~All receipts, cash, credits, and property of any kind~~];

(c) ***Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or***

(d) The amount charged for labor or services rendered in installing or applying the property or service sold, provided the amount charged is separately stated on the invoice, bill of sale, or similar document given to the purchaser[~~Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale~~].

[~~(3) "Gross receipts" do not include any of the following:~~

~~(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);~~

~~(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;~~

~~(c) The price received for labor or services used in installing or applying the property sold;~~

~~(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;~~

~~(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;~~

~~(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17);~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243;~~

~~(h) Amounts received for communications services utilized in providing a prepaid calling arrangement as defined in KRS 139.160.~~

~~(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.~~]

Section 2. KRS 139.100 is amended to read as follows:

(1) "Retail sale"[~~ or "sale at retail"~~] means ***any***[~~:~~

~~(a) 1. A~~] sale***, lease, or rental*** for any purpose other than resale***, sublease, or subrent*** in the regular course of business of tangible personal property[~~, or~~

~~2. The furnishing of the facilities and services mentioned in subsection (2) of this section;~~

~~(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.~~

~~(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:~~

~~(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;~~

~~(b) The furnishing of sewer services;~~

~~(c) The sale of admissions, except those taxed under KRS 138.480;~~

~~(d) The furnishing of communications services, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, to a service address in this state, regardless of where those services are billed or paid, when the communications service:~~

~~1. Originates and terminates in this state;~~

~~2. Originates in this state; or~~

~~3. Terminates in this state;~~

~~(e) The furnishing of mobile telecommunications services as defined in 4 U.S.C. sec. 124 to a customer with a service address in this state.~~

~~(3) For the purposes of this chapter, "communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or~~

~~between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics, or any similar medium or method now in existence or later devised. "Communications service" includes but is not limited to local telephone services, long distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile communications service, and Internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, Internet protocol, or other similar means. "Communications service" does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:~~

~~(a) Information services;~~

~~(b) Internet access;~~

~~(c) Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. However, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;~~

~~(d) The sale of directory and other advertising and listing services;~~

~~(e) The sale of one-way paging services;~~

~~(f) Billing and collection services provided to another communications service provider; or~~

~~(g) Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the Federal Cable Act of 1996.~~

~~(4) For the purposes of this chapter, "service address" means:~~

~~(a) The location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of maritime systems, air-to-ground systems, third number and calling card calls, service address means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;~~

~~(b) In the case of a communications service, other than mobile telecommunications services as defined in 4 U.S.C. sec. 124, paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and~~

~~(c) In the case of mobile telecommunications service as defined in 4 U.S.C. sec. 124, the service address shall be the place of primary use as defined and determined under 4 U.S.C. secs. 116 to 126~~].

Section 3. KRS 139.110 is amended to read as follows:

(1) "Retailer" ***means***[~~includes~~]:

(a) Every ***person engaged in the business of making retail sales***[~~seller who makes any "retail sale" or "sales at retail,"~~] or ***furnishing***[~~who furnishes~~] any services[~~ and facilities~~] included in ***Section 7 of this Act***[~~KRS 139.100, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others~~];

(b) Every person engaged in the business[~~ of making sales for storage, use or other consumption or in the business~~] of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption;

(c) Every person making more than two (2) retail sales during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

(d) Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during ***the***[~~such~~] meeting.

(2) When the cabinet determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of ***the***[~~such~~] dealers, distributors, supervisors or employers, the cabinet may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

Section 4. KRS 139.120 is amended to read as follows:

(1) "Sale" means, the furnishing of any services[~~ and facilities~~] included in ***Section 7 of this Act and***[~~KRS 139.100 or,~~] any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration, and includes:

(a)[~~(1)~~] The producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for *purchasers*[~~consumers~~] who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing or imprinting;

(b)[~~(2)~~] A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price;

(c)[~~(3)~~]A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the *purchaser*[~~customer~~].

(2) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to purchase the property or extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1). "Lease or rental" shall not include:

(a) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; and

(c) Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property; and

These definitions shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law.

Section 5. KRS 139.140 is amended to read as follows:

"Seller" includes every person engaged in the business of selling tangible personal property or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax*, and every person engaged in making sales for resale*.

Section 6. KRS 139.160 is amended to read as follows:

(1) "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses*, regardless of the method of delivery,* and includes natural, artificial and mixed gas, electricity, water, *steam, and prewritten computer software.*

(2) "Prewritten computer software" means:

(a) Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more "prewritten computer software" programs or portions thereof does not cause the combination to be other than "prewritten computer software."

(b) Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser.

(c) Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser. When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made. In the case of modified or enhanced prewritten software, if there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement, then the modification or enhancement shall not constitute "prewritten computer software."[~~ and prepaid calling arrangements. For the purposes of this chapter, the term "prepaid calling arrangements" means any right to purchase communications service, which must be paid in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed. "Prepaid calling arrangements" includes, but is not limited to, prepaid cards and prepaid accounts which are decremented as calls take place.~~]

Section 7. KRS 139.200 is amended to read as follows:

[~~For the privilege of making "retail sales" or "sales at retail,"~~]A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts[~~ of any retailer~~] derived from*:*

(1) [~~"~~]Retail sales*, regardless of the method of delivery,*[~~" or "sales at retail"~~] made within this Commonwealth*; and*

(2) The furnishing of the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, or accommodations supplied for a

continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions except those taxed under KRS 138.480;

(d) Communications service to a service address in this state, other than mobile telecommunications services as defined in Section 8 of this Act, regardless of where those services are billed or paid, when the communications service:

- *1. Originates and terminates in this state;*
- *2. Originates in this state; or*
- *3. Terminates in this state; and*

(e) Mobile telecommunications services as defined in Section 8 of this Act, to a purchaser whose place of primary use is in this state[~~on and after July 1, 1990~~].

SECTION 8. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

As used in Sections 7, 23, and 29 of this Act:

(1) "Air-ground radiotelephone service" means a radio service, as defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) "Call-by-call basis" means any method of charging for communications services where the price is measured by individual calls.

(3) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(4) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber optic, or similar medium or method now in existence or later devised.

(a) "Communications service" includes but is not limited to local telephone services, long-distance telephone services, telegraph services, teletypewriter services, prepaid calling services, postpaid calling services, private communication services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, mobile telecommunications service, and Internet telephony involving telephone service in which messages originate or terminate over a public switched telephone network but are transmitted, in part, using transmission control protocol, Internet protocol, or other similar means.

(b) "Communications service" does not include any of the following if the charges are separately itemized on the bill provided to the purchaser:

- *1. Information services;*
- *2. Internet access;*
- *3. Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. This exclusion does not apply to any charge attributable to the connection, movement, change, or termination of a communications service;*
- *4. The sale of directory and other advertising and listing services;*
- *5. The sale of one-way paging services;*
- *6. Billing and collection services provided to another communications service provider; and*
- *7. Cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct-to-home satellite service as defined in Section 602 of the federal Telecommunications Act of 1996.*

(5) "Customer" means the person or entity that contracts with the seller of communications services. If the end user of communications services is not the contracting party, the end user of the communications service is the customer of the communications service, but only as it applies to the sourcing of the sale of communications services as provided in Section 23 of this Act. "Customer" does not include a reseller of communications service or a serving carrier providing mobile telecommunications service under an agreement to serve the customer outside the home service provider's licensed service area.

(6) "Customer channel termination point" means the location where the customer or other purchaser either inputs or receives communications.

(7) "End user" means the person who utilized the communications service. In the case of an entity, "end user" means the individual who utilized the service on behalf of the entity.

(8) "Home service provider" means the same as provided in 4 U.S.C. sec. 124(5).

(9) "Mobile telecommunications service" means the same as provided in 4 U.S.C. sec. 124(7).

(10) "Place of primary use" means the street address where the customer's or other purchaser's use of the communications service primarily occurs, and that is the residential street address or the primary business street address of the customer or other purchaser. In the case of mobile telecommunications service, "place of primary use" shall be within the licensed service area of the home service provider.

(11) "Post-paid calling service" means a communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number not associated with the origination or termination of the communications service. A post-paid calling service includes a communication service that would be a prepaid service except that it is not exclusively a communications service.

(12) "Prepaid calling service" means the right to access exclusively communications services, which are paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(13) "Private communication service" means a communications service that entitles the customer or other purchaser to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of a channel or channels.

(14) (a) "Service address" means the location of communications equipment to which a customer's or other purchaser's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(b) If the location of the communications equipment is not known, "service address" means the origination point of the signal of the communications services first identified by either the seller's communications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

(c) If the location cannot be determined according to the guidelines set forth in paragraphs (a) and (b) of this subsection, "service address" means the location of the customer's or other purchaser's place of primary use.

Section 9. KRS 139.210 is amended to read as follows:

(1)[~~The taxes herein imposed shall be collected by the retailer from the consumer.~~

~~(2)~~] Except as provided in subsection (3) of this section, the tax *shall be* required to be collected by the retailer from the *purchaser. If the taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount. The tax*[~~consumer~~] shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.

(2)[~~(3)~~] The cabinet may relieve certain retailers from the provisions of subsection *(1)*[~~(2)~~] of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. *If the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.*

(3)[~~(4)~~] The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth of Kentucky.

(4)[~~(5)~~] The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

Section 10. KRS 139.220 is amended to read as follows:

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax levied by KRS 139.200 *or required to be collected under Section 17 of this Act* or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

Section 11. KRS 139.230 is amended to read as follows:

[~~The cabinet is authorized to prepare suitable brackets of prices for the collection of the taxes imposed by this chapter in order~~]To eliminate fractions of one cent ($0.01), and *to insure*[~~so~~] that the aggregate collections of taxes by a retailer, so far as may be practicable, shall be equal to six percent (6%) of gross receipts or sales price, as the case may be*, the tax shall be computed by applying the six percent (6%) rate to the sales price carried to the third decimal place and rounded to the nearest cent by eliminating any fraction less than one-half of one cent ($0.005) and increasing any fraction of one-half of one cent ($0.005) or over to the next higher cent*.

Section 12. KRS 139.240 is amended to read as follows:

(1) Every person presently engaged or desiring to engage in or conduct business as a *retailer or* seller within this state shall file with the cabinet an application for a permit for each place of business.

(2) Every application for a permit shall:

(a) Be made upon a form prescribed by the cabinet;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of ***the***[~~his~~] place or places of business; ***and***

(c) Set forth[~~ such~~] other information as the cabinet may require.

(3) The application shall be signed by:

(a) The owner, if he or she is a natural person;

(b) A member or partner, if the entity is an association, limited liability company, limited liability partnership, or partnership;

(c) An executive officer, if the entity is a corporation, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his or her authority; or

(d) A licensed certified public accountant, or an attorney licensed to practice law in the Commonwealth of Kentucky, specifically authorized by and acting on behalf of an owner, an association, a partnership, a limited liability company, a limited liability partnership, a corporation, or other business entity.

(4) A written signature shall not be required if the applicant registers electronically.

Section 13. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the ***duty to collect the taxes imposed by Section 7 of this Act and KRS 139.310,***[~~sales tax~~] it shall be presumed that all gross receipts ***and all tangible personal property sold by any person for delivery in this state*** are subject to the tax until the contrary is established. The burden of proving ***the contrary***[~~that a sale of tangible personal property is not a "retail sale" or "sale at retail"~~] is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is either:

(1) Purchased for resale according to the provisions of KRS 139.270[~~ or 139.410~~];

(2) Purchased through a properly executed certificate of exemption in accordance with ***Section 14 of this Act***[~~KRS 139.490~~];[~~ or~~]

(3) Purchased according to regulations of the Revenue Cabinet governing a direct pay authorization***; or***

(4) Purchased under a form issued pursuant to Section 24 or 25 of this Act.

Section 14. KRS 139.270 is amended to read as follows:

(1) The resale certificate ***or certificate of exemption*** relieves the ***retailer or*** seller from the burden of proof only if taken in good faith from a person who***,***[~~:~~

~~(a) Is engaged in the business of selling tangible personal property;~~

~~(b) Holds the permit provided for in KRS 139.250; and~~

~~(c)~~] at the time of purchasing the tangible personal property***:***[~~,~~]

(a) Indicates ***an***[~~his~~] intention to sell it in the regular course of business by executing the resale certificate***; or***

(b) Indicates that the property purchased will be used in an exempt manner by executing a certificate of exemption.

This relief from liability does not apply to a retailer or seller who fraudulently fails to collect the tax or solicits purchasers to participate in the unlawful claiming of an exemption.

(2) "Good faith" shall be demonstrated by the ***retailer or*** seller if ***the retailer or seller***[~~he~~]:

(a) Accepts a properly completed resale certificate ***or certificate of exemption; and***[~~;~~]

(b) Maintains a file of ***the***[~~such~~] certificate in accordance with KRS 139.720[~~; and~~

~~(c) Determines that the kind of property being sold to the purchaser is normally offered for resale in the type business operated by the purchaser and that the property, if delivered by the seller, is delivered to the purchaser's business address. The seller is also relieved if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose~~].

(3) If the cabinet later finds that the ***retailer or*** seller exercised good faith according to the provisions of subsection (2) of this section but that the purchaser used the property in a manner that would not have qualified for resale status ***or the purchaser issued a certificate of exemption and used the property in some other manner or for some other purpose***, the cabinet shall hold the purchaser liable for the remittance of the tax and may apply penalties provided in KRS 139.990.

Section 15. KRS 139.280 is amended to read as follows:

(1) The ***resale*** certificate shall:

(a) Be signed by and bear the name and address of the purchaser;

(b) Indicate the number of the permit issued to the purchaser;

(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.

(2) The certificate shall be substantially in ***a***~~[such]~~ form as the cabinet may prescribe.

(3) A signature shall not be required if the purchaser provides the retailer with an electronic resale certificate.

Section 16. KRS 139.290 is amended to read as follows:

(1) If a ***retailer or seller***~~[purchaser]~~ who gives a ***resale*** certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be taxable to the ***retailer or seller***~~[purchaser]~~ as of the time the property is first used by ***the retailer or seller***~~[him]~~, and the sales price of the property to ***the retailer or seller***~~[him]~~ shall be deemed the measure of the tax.~~[Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.]~~

(2) If the sole use of the property ***by the retailer*** other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the ***retailer***~~[purchaser]~~ shall include in~~[his]~~ gross receipts the amount of the rental charged rather than the sales price of the property~~[to him]~~.

(3) If a retailer sells tangible personal property before making any use thereof, other than retention, demonstration, or display while holding it for sale in the regular course of business, the retailer may take a deduction of the purchase price of the property if, with respect to its purchase, the retailer has reimbursed the vendor for the sales tax or has paid the use tax. If a deduction is taken by the retailer, no refund or credit shall be allowed to the vendor with respect to the sale of that property.

Section 17. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state ***shall***~~[and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable,]~~ collect the tax ***imposed by***~~[levied under]~~ KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth of Kentucky.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state; or

(e) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent operating in this state under the authority of the retailer to repair or service tangible personal property sold by the retailer.

Section 18. KRS 139.350 is amended to read as follows:

(1) A retailer ***may deduct as a bad debt the amount***~~[is relieved from liability to collect use tax which shall become due and payable subsequent to June 30, 1960, insofar as the measure of the tax is represented by accounts which have been]~~ found to be worthless and charged off for income tax purposes ***provided the retailer is reporting and remitting the tax on the accrual basis. The retailer may take the deduction on the return for the period during which the bad debt is written off as uncollectable in the retailer's books and records and is eligible to be charged off for income tax purposes. For purposes of this section, "charged off for income tax purposes" includes the charging off of unpaid balances due on accounts determined to be uncollectable, or declaring as uncollectable the unpaid balance due on accounts if a retailer is not required to file federal income tax returns.***

(2) In determining the basis for calculating bad debt recovery, the definition of "bad debt" as provided in 26 U.S.C. sec. 166 shall be used, except "bad debt" shall not include financing charges or interest, sales or use taxes charged on the purchase price, uncollectable amounts on property that remains in the possession of the retailer until the full purchase price is paid, expenses incurred in attempting to collect any debt, or repossessed property.

(3) Nothwithstanding KRS 131.183, any deduction taken for bad debts shall not include interest.

(4) A retailer may obtain a refund of tax on the amount of bad debt that exceeds the amount of taxable sales for the period during which the bad debt is written off. Notwithstanding KRS 131.183, the refund claim must be made within four (4) years from the due date of the return on which the bad debt could first be claimed[~~ If the retailer has previously paid the amount of the tax, he may, under rules and regulations prescribed by the cabinet, take as a deduction the amount found worthless and charged off for income tax purposes~~].

(5) If any ***bad debt***[~~such~~] accounts are thereafter in whole or in part collected by the retailer, the amount[~~ so~~] collected shall be included in the[~~ first~~] return filed ***for the period in which the***[~~after such~~] collection ***is made*** and the amount of the tax ***due shall be***[~~thereon~~] paid with the return.

(6) If a retailer's filing responsibilities have been assumed by a certified service provider as provided by KRS 139.795, the certified service provider may claim, on behalf of the retailer, any bad debt allowance provided by this section. The certified service provider shall credit or refund the full amount of any bad debt allowance or refund received to the retailer.

(7) For purposes of computing a bad debt deduction or reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first to the price of the property or service and the sales tax on it, proportionally, and secondly to interest, service charges, and any other charges.

Section 19. KRS 139.380 is amended to read as follows:

The tax required to be collected by the retailer under KRS 139.340 from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales. ***If taxable goods are bundled with services and are sold as a single package for one (1) price, the tax required to be collected by the retailer from the purchaser shall be computed on the entire amount and shall be displayed separately from the list price, the price advertised on the premises, the marked price, or other price on the sales check or other proof of sales.***

Section 20. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property[~~ the gross receipts from the sale of which, or the storage, use, or other consumption of~~] which[~~,~~] this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the ***retailer***[~~seller~~] via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the ***retailer***[~~seller~~] and the ***retailer***[~~seller~~] maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale[~~ are not subject to the sales or use tax~~]. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.170(3). For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the ***retailer's***[~~seller's~~] own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~] or an agent or representative of the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or whether the F.O.B. is ***retailer's***[~~seller's~~] shipping point or ***purchaser's***[~~buyer's~~] destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The ***retailer***[~~seller~~] shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;

(14) Gross receipts from the sale of water used in the raising of equine as a business;

(15) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the ***retailer's***[~~seller's~~] own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~] or an agent or representative of the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or whether the F.O.B. is ***the retailer's***[~~seller's~~] shipping point or ***the purchaser's***[~~buyer's~~] destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific ***purchaser***[~~customer~~] specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The ***retailer***[~~seller~~] shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet;[~~ and~~]

(16) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or is an agent or representative of the ***purchaser***[~~buyer~~] or ***retailer***[~~seller~~], or whether the F.O.B. is ***the retailer's***[~~seller's~~] shipping point or ***purchaser's***[~~buyer's~~] destination***;***

(17) Gross receipts from the sale of property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(18) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(19) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(20) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied by KRS 138.460 has been paid;

(21) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and

(22) Gross receipts from the sale of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243.

Section 21. KRS 139.472 is amended to read as follows:

(1) ***Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of***[~~"Prescription medicine" shall mean and include~~]:

(a) ***A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;***[~~Any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and which is:~~

~~1. Prescribed for the treatment of a human being by a person authorized to prescribe the medicines and dispensed on prescription by a registered pharmacist in accordance with law; or~~

~~2. Commonly recognized as a substance or preparation prescribed and dispensed as provided in subparagraph 1. of this paragraph and intended to be distributed as a free sample to or from a physician's office; and~~]

(b) Medical oxygen***, including high pressure cylinders, cryogenic tanks, or oxygen concentrators, tubes, masks, and*** *similar items required for the delivery of oxygen to the patient* when purchased by *an individual*[~~the patient~~] for private use*;*

(c) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;

(d) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;

(e) Prosthetic devices purchased by any healthcare provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;

(f) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser; and

(g) Crutches, walkers, wheelchairs, wheelchair lifting devices, and wheelchair repair and replacement parts purchased by an individual for private use.

(2) *Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable*[~~"Prosthetic devices and physical aids" for the purpose of this section shall mean and include artificial devices prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual; artificial limbs, artificial eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed, or altered solely for the use of a particular disabled person; crutches, walkers, hospital beds, wheelchairs, wheelchair repair and replacement parts, and wheelchair lifting devices for the use of invalids and crippled persons; colostomy supplies, urostomy supplies, ileostomy supplies, insulin and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics~~].

(3) *As used in this section:*

(a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in Section 22 of this Act, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, and is:

1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or

2. Intended to affect the structure or any function of the human body.

(b) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug.

(c) 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:

a. Artificially replace a missing portion of the body;

b. Prevent or correct a physical deformity or malfunction; or

c. Support a weak or deformed portion of the body.

2. "Prosthetic device" shall not include any of the following:

a. Corrective eyeglasses;

b. Contact lenses; or

c. Dental prosthesis[~~The terms "sale at retail," "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage, or consumption of prescription medicine, prosthetic devices, and physical aids~~].

Section 22. KRS 139.485 is amended to read as follows:

(1) Except as otherwise provided, the terms[~~ "sale at retail,"~~] "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of food *and food ingredients* for human consumption.

(2) The term "food" *and food ingredients* as used in subsection (1) of this section *means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not*[~~shall~~] include:

(a) *Alcoholic beverages*[~~Cereals and cereal products~~];

(b) *Tobacco*[~~Milk and milk products~~];

(c) *Candy*[~~Meat and meat products~~];

(d) *Dietary supplements*[~~Fish and fish products~~];

(e) *Soft drinks; and*[~~Eggs and egg products;~~]

(f) *Prepared food*[~~Vegetables and vegetable products;~~

~~(g) Fruit and fruit products, including fruit juices;~~

~~(h) Sugar, sugar products and sugar substitutes; other than candy, confectionery and chewing gum;~~

~~(i) Coffee and coffee substitutes;~~

~~(j) Tea, cocoa and cocoa products; other than candy and confectionery;~~

~~(k) Spices, condiments, and salt;~~

~~(l) Oleomargarine~~].

(3) *For purposes of this section*[~~The term "food" as used in subsection (1) of this section shall not include~~]:

(a) *"Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume*[~~Candy, confectionery and chewing gum~~];

(b) *"Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco*[~~Spirituous, malt, or vinous liquors~~];

(c) *"Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include:*

1. Any preparation containing flour; or

2. Any item requiring refrigeration[~~Cocktail mixes~~];

(d) *"Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:*

1. Contains one (1) or more of the following dietary ingredients:

a. A vitamin;

b. A mineral;

c. An herb or other botanical;

d. An amino acid;

e. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;

2. Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

3. Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36[~~Soft drinks, sodas, and similar beverages~~];

(e) *"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume*[~~Medicines, tonics, vitamins, and other dietary supplements~~];

(f) *"Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment*[~~Water, mineral water, carbonated water and ice~~];

(g) "*Prepared food" means:*

1. Food sold in a heated state or heated by the retailer;

2. Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food borne illnesses; or

3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

(4) Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines, nonmechanical self-service vending systems, or by street vendors shall be subject to the tax imposed by this chapter[~~Pet foods;~~

~~(h) Meals served on or off the premises of the retailer;~~

~~(i) Food furnished, prepared, or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware provided by the retailer;~~

~~(j) Food sold by retailers who ordinarily sell for consumption on or near the premises of the retailer even though the food is sold on a "take out" or "to go" order and is actually bagged, packaged, or wrapped and taken from the premises of the retailer;~~

~~(k) Food sold through vending machines;~~

~~(l) Food sold by street vendors; and~~

~~(m) Food sold through nonmechanical self service vending systems~~].

SECTION 23. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of the retailer's obligation to pay or collect and remit the taxes imposed by Section 7 of this Act and 139.310, the retailer shall source the retail sale, excluding sales of communications service as follows:

(a) Over the counter. When the purchaser receives tangible personal property or service at a business location of the retailer, the sale is sourced to that business location.

(b) Delivery to a specified address. When a purchaser or purchaser's donee receives tangible personal property or service at a location specified by the purchaser, the sale is sourced to that location.

(c) Delivery address unknown. When the retailer of a product does not know the address where the tangible personal property or service is received, the sale is sourced to the first address listed in this paragraph that is known to the retailer:

1. The address of the purchaser;

2. The billing address of the purchaser; or

3. The address from which the tangible personal property was shipped; from which the computer software was delivered electronically or was first available for transmission by the retailer; or from which the service was provided.

(2) The retailer shall source communications services as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's or other purchaser's place of primary use.

(b) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by either the retailer's telecommunications system or information received by the retailer from it's service provider, where the system used to transport the signals is not that of the retailer.

(c) A sale of prepaid calling service shall be sourced to the customer's or other purchaser's place of primary use, provided that if the sale is of a prepaid calling service that is also a mobile telecommunications service and the retailer does not know the address where the service is received, the sale shall be sourced to the first of the following that is known by the retailer:

1. The address of the customer available from the business records of the retailer;

2. The billing address of the customer;

3. The address from which the service was provided; or

4. The location associated with the mobile telephone number.

(d) A sale of a private communication service shall be sourced as follows:

1. Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located.

2. Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.

3. Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are not separately charged shall be sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

4. Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(e) A sale of other communications services sold on a basis other than a call-by-call basis shall be sourced to the customer's or other purchaser's place of primary use.

(3) Nothing included in subsections (1) or (2) of this section shall affect the obligation of a purchaser to remit use tax pursuant to KRS 139.310.

SECTION 24. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter to the contrary, a business purchaser that is not a holder of a direct pay permit that knows at the time of the purchase of a digital good, computer software delivered electronically, or a service that is a digital good that the item purchased will be concurrently available for use in more than one (1) jurisdiction shall deliver to the retailer, in conjunction with the purchase, a Multiple Points of Use (MPU) Exemption Form disclosing this fact.

(1) Upon receipt of the MPU Exemption Form, the retailer shall be relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(2) A purchaser delivering the MPU Exemption Form may use any reasonable and consistent uniform method of

apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(3) The MPU Exemption Form shall remain in effect for all future sales by the retailer to the purchaser, except as to a subsequent sale that has a specific apportionment that is governed by subsection (2) of this section and the facts existing at the time of the sale, until it is revoked in writing.

(4) A holder of a direct pay permit shall not be required to deliver a MPU Exemption Form to the retailer. A direct-pay permit holder shall follow the provisions of subsection (2) of this section in apportioning the tax due on a digital good or service or computer software delivered electronically that will be concurrently available for use in more than one (1) jurisdiction.

SECTION 25. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the retailer in conjunction with the purchase either a Direct-Mail Form or information to show the jurisdictions in which the direct-mail is delivered to recipients.

(a) Upon receipt of the Direct-Mail Form, the retailer shall be relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser shall pay or remit the applicable tax on a direct-pay basis. A Direct-Mail Form shall remain in effect for all future sales of direct mail by the retailer to the purchaser until it is revoked in writing.

(b) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the retailer shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the retailer is relieved of any further obligation to collect the tax on any transaction where the retailer has collected the tax pursuant to the delivery information provided by the purchaser.

(2) If the purchaser of direct mail does not have a direct-pay permit and does not provide the retailer with either a Direct-Mail Form or delivery information, as required by subsection (1) of this section, the retailer shall collect the tax according to the address from where the direct mail was shipped. Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state in which the direct mail is delivered.

(3) If a purchaser of direct mail provides the retailer with documentation of direct-pay authority, the purchaser shall not be required to provide a Direct-Mail Form or delivery information to the retailer.

(4) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material. "Direct-mail" does not include multiple items of printed material delivered to a single address.

Section 26. KRS 139.550 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in *a*[~~such~~] form[~~ as~~] the cabinet may prescribe.

(2) For purposes of the sales tax*,* a return shall be filed by every *retailer or* seller. For purposes of the use tax*,* a return shall be filed by every retailer engaged in business in the state and by every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. *If a retailer's responsibilities have been assumed by a certified service provider as defined by KRS 139.795, the certified service provider shall file the return.*

(3) Returns shall be signed by the person required to file the return or by *a*[~~his~~] duly authorized agent but need not be verified by oath.

(4) Persons not regularly engaged in selling at retail and not having a permanent place of business, but who are temporarily engaged in selling from trucks, portable roadside stands, concessionaires at fairs, circuses, carnivals, and the like, shall report and remit the tax on a nonpermit basis, under[~~ such~~] rules as the cabinet shall provide for the efficient collection of the sales tax on[~~ such~~] sales.

(5) The return shall show the amount of the taxes for the period covered by the return and other information the cabinet deems necessary for the proper administration of this chapter.

Section 27. KRS 139.735 is amended to read as follows:

(1) The Revenue Cabinet shall not promulgate any administrative regulation or policy either written or unwritten whose provisions are more stringent than the provisions of KRS 139.270[~~, 139.410, 139.490,~~] and 103 KAR 31.030 regarding the good faith provisions for resale certificates, exemption certificates and direct pay authorizations.

(2) It shall be mandatory upon the Revenue Cabinet during any audit process to honor resale certificates, exemption certificates and direct pay authorizations when executed according to the good faith provisions defined and described in KRS 139.270[~~, 139.410, 139.490,~~] and 103 KAR 31.030.

Section 28. KRS 139.770 is amended to read as follows:

(1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS

134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain such information as the cabinet may require.

(3) No taxpayer ***or certified service provider as provided by KRS 139.795*** shall be entitled to a refund or credit of the taxes paid pursuant to the provisions of this chapter where the taxes have been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of taxes collected from the purchaser are refunded to ***the purchaser***[~~him~~] by the taxpayer ***or certified service provider as provided by KRS 139.795*** who paid the taxes to the State Treasury.

(4) Where applicable, the amount of any claim for refund or credit shall be reduced by the amount deducted by the taxpayer ***or certified service provider as provided by KRS 139.795*** pursuant to KRS 139.570 at the time the taxes were paid to the State Treasury.

Section 29. KRS 139.775 is amended to read as follows:

(1) As it relates to the taxation under this chapter of mobile telecommunications services as defined in ***Section 8 of this Act,*** [~~4 U.S.C. sec. 124:~~

~~(1)~~]the provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.

(2) If a ***communications services or mobile telecommunications services*** customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall***, within four (4) years of the date of the bill,*** notify the home service provider about the alleged error, in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer[~~ within four (4) years of the customer's notification~~], or explain to the customer in writing ***why***[~~how~~] the bill was correct and why a refund or credit will not be made.

(3) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (2) of this section.

(4) Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.

SECTION 30. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) For all sales and use tax transactions where the purchaser believes that tax has been charged in error, a cause of action against the retailer for the over-collected sales or use taxes does not accrue until the purchaser has provided notice to the retailer and the retailer has had sixty (60) days to respond. The notice to the retailer shall contain the information necessary to determine the validity of the inquiry.

(2) In connection with a purchaser's inquiry to a retailer regarding over-collected sales or use taxes, a retailer shall be presumed to have a reasonable business practice, if in the collection of the sales or use tax the retailer:

(a) Uses either a certified service provider, certified automated system, or a proprietary system as provided by KRS 139.795; and

(b) Has remitted all taxes collected less any deductions, credits or collection allowances.

(3) Nothing in this section shall extend any person's time to seek a refund of sales or use taxes collected or remitted to the state beyond the provisions of KRS 134.580.

Section 31. KRS 139.785 is amended to read as follows:

(1) The cabinet is authorized and directed to enter into the agreement with one (1) or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. To further the agreement, the cabinet is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

(2) The cabinet is further authorized to take other actions reasonably required to implement the provisions set forth in KRS 139.780 to 139.795. Other actions authorized by this section include, but are not limited to, the adoption of rules and regulations and the joint procurement, with other member states, of goods and services to further the cooperative agreement. ***Notwithstanding the provisions of KRS Chapter 13A, the Cabinet may issue educational bulletins to the extent necessary to enhance the understanding of and compliance with terms of the agreement.***

(3) The secretary of the cabinet or the secretary's designee***, the state budget director or the director's designee, and two (2) legislators are***[~~is~~] authorized to represent this state before the other states that are signatories to the agreement. ***One (1) member of the Senate shall be appointed by the President of the Senate, and one (1) member of the House of Representatives shall be appointed by the Speaker of the House of Representatives.***

Section 32. KRS 139.990 is amended to read as follows:

(1) Any person who executes:

(a) A resale certificate for property in accordance with KRS 139.270[~~ or 139.410,~~] knowing at the time of purchase that such property is not to be resold by him in the regular course of business, for the purpose of evading the tax imposed under this chapter;

(b) An exemption certificate for property in accordance with ***Section 14 of this Act***[~~KRS 139.490~~], knowing at the time of the purchase that he is not engaged in an occupation that would entitle him to exemption status or any person who does not intend to use the property in the prescribed manner; or

(c) A direct pay authorization for property not in accordance with 103 KAR 31.030;

(d) A MPU exemption form or Direct Mail Form issued not in accordance with the provisions of Sections 24 and 25 of this Act.

shall be guilty of a Class B misdemeanor.

(2) A person who engages in business as a seller in this state without a permit or permits as required by this chapter or after a permit has been suspended, and each officer of any corporation which is so engaged in business, shall be guilty of a Class B misdemeanor.

(3) Any person who violates any of the provisions of KRS 139.220,[~~ 139.370,~~] 139.380, *or* 139.700[~~, or 139.750~~] shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the regulations promulgated by the cabinet[~~ under KRS 139.230~~] shall be guilty of a Class B misdemeanor.

(5) Any person, business, or motion picture production company falsifying expenditure reports, applications, or any other statements made in securing the tax credit afforded by KRS 139.5382 to 139.5386 shall be guilty of a Class D felony. Such motion picture production companies shall be denied any tax credit to which they would otherwise be entitled, and shall be prohibited from applying for any future credit afforded by KRS 139.5382 to 139.5386.

Section 33. KRS 325.445 is amended to read as follows:

A certified public accountant licensed in the Commonwealth under the provisions of this chapter, or an attorney licensed to practice law in the Commonwealth of Kentucky, with express authorization of a client may act as an agent of that client to:

(1) Complete, sign, and file an application for a seller's permit to do business as provided in KRS 139.240;

(2) Complete, sign, and file an application for a seller's permit for any out-of-state retailer who is not required to file for the collection of use tax under KRS 139.340 but is seeking to do so on a voluntary basis as provided by KRS 139.700;

(3)[~~ Complete, sign, and file an application for a general business license as provided for in KRS 154.12-219. A certified public accountant acting under this subsection shall remit the license fee required under KRS 154.12-219 with the application and may seek reimbursement from the applicant for that fee;~~

~~(4)~~] Complete, sign, and file an application for a certificate of registration to sever or process coal in this state as required by KRS 143.030; and

(4)[~~(5)~~] Complete, sign, and file an application for an employer's withholding, corporation income, and corporation license tax registration numbers as may be required by KRS 131.130.

Section 34. The following KRS sections are repealed:

139.130 "Sales price."

139.370 Prohibited advertising.

139.400 Presumption that property sold is for use in this state.

139.410 Resale certificate.

139.420 Contents and form of certificate.

139.460 Presumption as to property delivered outside state to Kentucky resident -- How controverted.

139.490 Purchaser's liability for using property in other than exempt way after certification.

139.532 Applicability of sales or use tax to gross receipts from various sources.

139.560 Contents of monthly return.

139.690 Condition of refund on ground that use tax is not applicable.

139.750 Deliveryman's duty to collect use tax -- Exceptions.

154.12-219 General business license.

154.99-012 Penalties for Subchapter 12.

Section 35. This Act takes effect July 1, 2004.

The Committee Amendment No. 1 to **HB 293** is as follows:

HB 293, On page 35, between lines 6 and 7, insert the following:

"*(h) Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold* *without eating utensils provided by the seller:*

1. Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or

2. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.".

The Committee on Labor and Industry reported **HB 397** and **HB 398** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 397, AN ACT relating to the Kentucky Employers' Mutual Insurance Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.831 is amended to read as follows:

(1) For marketing and sales purposes, the authority shall utilize only agents duly and legally licensed and in good standing in accordance with the provisions of KRS Chapter 304 to sell coverage provided by the authority. *The authority shall not be required to appoint agents.*

(2) Commissions paid for marketing or sales by an insurance agent shall be determined by the manager, subject to the approval of the board.

HB 398, AN ACT relating to safety education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 95A.200 TO 95A.300 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a Safety Education Fund to be administered by the Commission on Fire Protection Personnel Standards and Education to initiate education programs in the public schools and other agencies to reduce and prevent injuries and the loss of life. The fund shall:

(a) Provide funding for a statewide "Risk Watch" program to be implemented in the public schools;

(b) Provide funding for statewide fire safety initiatives and programs including the "Learn Not to Burn Program;" and

(c) Allot grants to fire departments to provide resources for public education programs.

(2) The commission shall promulgate administrative regulations to establish the criteria for providing funds to initiate injury prevention curricula and training programs throughout the state. The funding criteria shall include requirements that the recipients of funds work in cooperation with other agencies to establish the programs.

The Committee on Licensing and Occupations reported **HB 210, HB 389, HB 428, HB 459,** with Committee Amendment attached thereto, **HB 462,** and **HCR 126** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 210, AN ACT relating to cosmetology fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.050 is amended to read as follows:

(1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:

(a) Is of good moral character and temperate habit;

(b) Is at least sixteen (16) years of age;

(c) Has at least two (2) years' high school education or its equivalent;

(d) Has graduated from a licensed school of cosmetology;

(e) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and

(f) Has paid a fee of *twenty-five*[~~twelve~~] dollars *($25)*[~~($12)~~].

(2) The cosmetologist board shall issue a cosmetologist license to any person who:

(a) Has at least two (2) years' high school education, or its equivalent;

(b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;

(c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and

(d) Has paid a fee of *twenty-five*[~~fifteen~~] dollars *($25)*[~~($15)~~].

(3) The cosmetologist board shall issue a license to act as a nail technician to any person who:

(a) Is of good moral character and temperate habit;

(b) Has completed satisfactorily a nail technician course of study of six hundred (600) hours in a licensed school of cosmetology;

(c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a nail technician;

(d) Has two (2) years of high school education or its equivalent; and

(e) Has paid a fee of ***twenty-five***[~~twelve~~] dollars ***($25)***[~~($12)~~].

(4) (a) The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application, accompanied by a fee of ***thirty-five***[~~twenty-five~~] dollars ***($35)***[~~($25)~~]. The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or the administrative regulations promulgated by the board. If an owner is not a licensed cosmetologist, he shall have a licensed cosmetologist manage the beauty salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.

(b) The cosmetologist board shall issue a license to operate a nail salon to any licensed nail technician upon receipt of the completed application and payment of a fee of ***thirty-five***[~~twenty-five~~] dollars ***($35)***[~~($25)~~]. The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or administrative regulations promulgated by the board pursuant to this chapter. An owner who is not a licensed nail technician shall have a licensed nail technician or cosmetologist as manager of the nail salon at all times. If the owner, manager, or location of a nail salon changes, a new license shall be purchased.

(c) Any person who leases or rents space in a beauty salon or nail salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a) and (b) of this subsection.

(5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:

(a) Has paid a fee of ***thirty-five***[~~twenty-five~~] dollars ***($35)***[~~($25)~~];

(b) Has a high school education and one (1) year experience as a licensed cosmetologist; and

(c) Has submitted an application that has been signed by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall certify to the board the completion of one thousand (1,000) hours.

(6) The cosmetologist board shall issue a license to teach cosmetology to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has held an apprentice instructor license for at least six (6) months;

(d) Has satisfactorily passed the examination for the teaching of cosmetology as prescribed by the board; and

(e) Has paid a fee of ***fifty***[~~thirty-five~~] dollars ***($50)***[~~($35)~~].

(7) ***(a)*** The cosmetologist board may issue a license to operate a school of cosmetology to any person who:

1.[~~(a)~~] Has complied with the administrative regulations promulgated by the board including, but not limited to, administrative regulations governing the necessary equipment, supplies, and facilities;

2.[~~(b)~~] Has furnished proof to the board that the school of cosmetology is needed, that he is otherwise qualified to operate a school of cosmetology, and that he intends to establish a bona fide school for the education and training of competent cosmetologists and that he will employ a sufficient number of licensed instructors of cosmetology to conduct the school;

[~~(c) That the licensee shall have as manager at all times a person licensed as an instructor who will be charged with the responsibility of having a sufficient number of licensed instructors of cosmetology to conduct the school. The designated manager shall be approved by the board before a license may be issued;~~]

3.[~~(d)~~] Complies with the administrative regulations promulgated by the board including, but not limited to, those regarding courses, curriculum, and hours of instruction;

4.[~~(e)~~] Otherwise complies with this chapter;

5.[~~(f)~~] Has paid a fee of one thousand ***five hundred*** dollars ***($1,500)***[~~($1,000)~~]; ***and***

6.[~~(g)~~] Has been a resident of Kentucky for five (5) years, if the applicant is an individual. If the applicant is a firm or corporation, it shall be a Kentucky corporation or licensed or qualified to do business in Kentucky and shall have been in existence for a period of at least five (5) years;

(b) Licensees under this subsection shall have as manager at all times a person licensed as an instructor who will be charged with the responsibility of having a sufficient number of licensed instructors of cosmetology to

conduct the school. The designated manager shall be approved by the board before a license may be issued.

(c)[~~(h)~~]Any student enrolling in the school shall pay a fee of *fifteen*[~~five~~] dollars *($15)*[~~($5)~~] to the board before enrollment in the school shall be allowed*.*[~~; and~~]

(d)[~~(i)~~] The transfer of any license to operate a school of cosmetology shall require the board's approval and shall become effective upon filing a new application with the board and paying a fee of one thousand *five hundred* dollars *($1,500)*[~~($1,000)~~].

(8) Licenses issued by the board shall be renewed upon receipt, beginning July 1 through July 31 of each year. Beginning July 1, 1997, any license shall be renewed by the board upon receipt, if the applicant has provided proof of continuing education as determined by the board by promulgation of an administrative regulation. Cosmetology instructors shall provide proof of eight (8) clock hours of continuing education, and cosmetologists and nail technicians shall provide proof of six (6) clock hours of continuing education. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section. Applications for renewal shall comply with the provisions of this chapter and the administrative regulations promulgated by the board. Any license application received or postmarked after July 31 shall be considered expired and the appropriate restoration fee required by subsection *(12)*[~~(11)~~] of this section shall apply.

(9) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Apprentice cosmetologist -- *$20*[~~$10~~];
(b) Cosmetologist -- *$20*[~~$12~~];
(c) Nail technician -- *$20*[~~$10~~];
(d) Beauty salon -- *$25*[~~$15~~];
(e) Nail salon -- *$25*[~~$15~~];
(f) Apprentice instructor of cosmetology -- *$25*[~~$15~~];
(g) Instructor of cosmetology -- *$35*[~~$25~~]; and
(h) Cosmetology school -- *$150*[~~$100~~].

(10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:

(a) Apprentice cosmetologist -- *$75*[~~$25~~];
(b) Cosmetologist -- *$75*[~~$35~~];
(c) Nail technician -- *$75*[~~$35~~];
(d) Instructor of cosmetology -- *$100*[~~$50~~];
(e) Cosmetologist out-of-state -- *$120*[~~$75~~];
(f) Instructor out-of-state -- *$200*[~~$150~~]; and
(g) Where examination is not required by the board -- *$100*[~~$50~~].

(11) *The fee for retaking an examination or any portion of an examination that an applicant has not successfully completed shall be as follows:*

(a) Apprentice cosmetologist -- $32;
(b) Cosmetologist -- $32;
(c) Nail technician -- $32;
(d) Instructor of cosmetology --$50;
(e) Cosmetologist out-of-state --$60; and
(f) Instructor out-of-state -- $100.

Any person retaking an examination or any portion of an examination shall submit a new application to the board.

(12) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:

(a) Apprentice cosmetologist -- *$75*[~~$50~~];
(b) Cosmetologist -- *$75*[~~$50~~];
(c) Nail technician -- *$75*[~~$50~~];
(d) Beauty salon -- *$75*[~~$50~~];
(e) Nail salon -- *$75*[~~$50~~];
(f) Cosmetology school -- *$750*[~~$500~~];
(g) Instructor -- *$100*[~~$75~~]; and
(h) Apprentice instructor -- *$75*[~~$50~~].

(13)[~~(12)~~] The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:

(a) Cosmetologists shall retake and pass the practical examination only;

(b) Apprentice cosmetologists shall complete one hundred fifty (150) additional hours training in a licensed school of cosmetology and pass the prescribed examination;

(c) Instructors of cosmetology shall retake and pass both the practical and science examination;

(d) Nail technicians shall retake and pass the practical examination, only; and

(e) The appropriate restoration fee as set forth in subsection *(12)*[~~(11)~~] of this section shall be required.

(14)[~~(13)~~] Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers, cosmetologists, and nail technicians shall pay a fee of *fifty*[~~thirty-five~~] dollars *($50)*[~~($35)~~] for a permit that shall be in effect for ten (10) days. Guest artists performing before a nonprofit, recognized professional hairdressers, cosmetologists, and nail technicians group shall not be required to pay the fee.

(15)[~~(14)~~] The board shall issue an inactive license to any person licensed under subsections (2), (3), and (6) of this section and in good standing with the board, upon application and submission of a *twenty*[~~twelve~~] dollar *($20)*[~~($12)~~] fee. An inactive licensee shall not be required to complete the continuing education requirements contained in subsection (8) of this section. An inactive license may be restored to active status upon application to the board. In addition, the board may require the completion of continuing education not to exceed the amount required for license renewal for one (1) year. A person who possesses an inactive license shall not engage in the practice of cosmetology for consideration, but an inactive licensee shall have the same right to purchase supplies as accorded an active licensee.

(16)[~~(15)~~] The fee for certification shall be *twenty*[~~five~~] dollars *($20)*[~~($5)~~].

(17)[~~(16)~~] The fee for a duplicate license shall be *twenty-five*[~~five~~] dollars *($25)*[~~($5)~~].

(18) The fee for an application for a continuing education provider shall be two hundred dollars ($200). The fee shall be submitted to the board with the application for approval of the continuing education program.

(19) The fee for changing a continuing education program shall be fifty dollars ($50), and shall be submitted with each request for a change. The following changes require the payment of the fee:

(a) A change in the program's title;

(b) A change in the name of the organization or individual sponsoring the program;

(c) A change in the number of clock hours for which approval is requested;

(d) A change in the cost of the program to the attendee;

(e) A change in the program's date;

(f) A change in the program's location;

(g) A change in the program's time;

(h) A change in the program's objectives;

(i) A change in the program's instructors;

(j) A change in the manner of presentation at the program; and

(k) A change in the method or instrument used to evaluate the program.

Section 2. This Act takes effect August 1, 2003.

HB 389, AN ACT relating to quarter horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;

(2) "Commission" means the Kentucky Racing Commission;

(3) "Commissioner" means a commissioner of the Kentucky Racing Commission;

(4) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;

(5) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;

(7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Racing Commission, and may include thoroughbred***,***~~[and]~~ harness***, and quarter horse*** racing;

(8) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

(9) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(10) "Track" means any association duly licensed by the Kentucky Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty (60) mile radius of a track but not contiguous to track premises, upon commission approval, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area;

(11) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;

(12) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

(13) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(14) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

(15) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;

(17) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track; and

(18) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:

(a) The chairman and all members of the board of directors of a corporation;

(b) All partners of a partnership and all participating members of a limited liability company;

(c) All trustees and trust beneficiaries of an association;

(d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;

(e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, ten percent (10%) or more of stock or financial interest in the collective organization; and

(f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation.

Section 2. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In a geographic area containing more than one (1) track within a fifty (50) mile radius of another track, intertrack wagering***, except for quarter horse racing,*** shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before July 15, 1998.

(3) The commission shall approve no more than nine (9) tracks for participation in horse racing, intertrack wagering, and simulcasting. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class or a consolidated local government and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:

(a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) ***A track licensed to conduct quarter horse racing may receive simulcasts and conduct interstate wagering on all quarter horse races designated as graded stakes races by the graded stakes committee of the American Quarter Horse Association, without further consents or approvals.***

(d) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission. ***Notwithstanding the foregoing, a track licensed to conduct horse racing may receive simulcasts and conduct interstate wagering on quarter horse races, subject to the limitations of Section 3 of this Act.***

(e)[~~(d)~~]A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(f)[~~(e)~~] A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and *(e)*[~~(d)~~] of this subsection if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(g)[~~(f)~~] The consent required by paragraph *(f)*[~~(e)~~] of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or
2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(h)[~~(g)~~] A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;
2. Live racing was canceled due to weather conditions; and
3. The consent required by paragraph *(e)*[~~(d)~~] of this subsection is obtained.

(i)[~~(h)~~] The in-state track receiving the simulcast specified in paragraph *(h)*[~~(g)~~] of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(j)[~~(i)~~] All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 3. KRS 230.3771 is amended to read as follows:

(1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races ***and quarter horse races,*** and conduct interstate wagering thereon, subject to the following limitations:

(a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks not subject to the provisions of KRS 230.377(2), and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:

(a) A harness receiving track may receive interstate simulcasts of harness races ***and quarter horse races,*** and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks not subject to the provisions of KRS 230.377(2), all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.

(4) ***(a) A track licensed to conduct horse racing may receive interstate simulcasts of quarter horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.***

(b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the host track; and

3. Fifty percent (50%) to the quarter horse purse program within this state, to be allocated by the American Quarter Horse Association or its successor to supplement purses for quarter horse races in this state.

(5) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a geographic area that contains more than one (1) track within a fifty (50) mile radius of any other track may only receive interstate simulcasts on racing of the same breed of horse as the track was licensed to race on or before July 15, 1998***, except any track may receive interstate simulcasts on quarter horse races***.

HB 428, AN ACT relating to supplemental golf cart licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class or a consolidated local government	$800.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) In all other counties	$400.00
(8)	Retail drink license, motel drink license, restaurant drink license,[~~ or~~] supplemental bar license, ***or golf cart supplemental license,*** per annum:	
	(a) In counties containing cities of the first class or a consolidated local government	$1,000.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)	Transporter's license, per annum	$100.00
(10)	Dining car license, per annum	$100.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)	Special industrial alcohol license, per annum	$50.00
(13)	Special nonindustrial alcohol license, per annum	$50.00
(14)	Special agent's or solicitor's license, per annum	$25.00

(15) Special storage or warehouse license and bottling house storage license, per annum $500.00

(16) Special temporary liquor license, per event ... $100.00

(17) Special private club license, per annum ... $300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18) Special Sunday retail drink license, per annum ... $500.00

(19) Nonresident special agent or solicitor's license, per annum ... $100.00

(20) Transport permit, nonresident license, per annum ... $100.00

(21) Through transporter's license, per annum ... $100.00

(22) Freight forwarder's license, per annum ... $100.00

(23) Restaurant wine license, per annum ... $500.00

(24) Farm winery license, per annum ... $100.00

(a) Farm winery, off-premises retail outlet license, per annum ... $25.00

(25) Special temporary wine license, per event ... $50.00

(26) Caterer's license, per annum ... $800.00

(27) Souvenir retail liquor license, per annum ... $500.00

(28) Special temporary distilled spirits and wine auction license, per event ... $100.00

(29) Airport drink license, per annum ... $1,000.00

(30) Convention center or convention hotel complex license, per annum ... $5,000.00

(31) Extended hours supplemental license, per annum ... $2,000.00

(32) Horse race track license, per annum ... $2,000.00

(33) Automobile race track license, per annum ... $2,000.00

(34) Air or rail system license, per annum ... $2,000.00

(35) Riverboat license, per annum ... $1,000.00

(36) Bottling house license, per annum ... $1,000.00

(37) Hotel in-room license, per annum ... $200.00

(38) Bonded warehouse license, per annum ... $1,000.00

(39) Air transporter liquor license, per annum ... $500.00

(40) Sampling license, per annum ... $100.00

(41) Replacement or duplicate license ... $25.00

(42) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Section 2. KRS 243.250 is amended to read as follows:

(1) A distilled spirits and wine retail drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers, and unless he or she also holds a retail package license, he or she shall not buy or possess distilled spirits or wine in containers smaller than two hundred (200) milliliters. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent (14%) alcohol by volume and the retail drink license is held by a restaurant or private club which receives a minimum of fifty percent (50%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package.

(2) Notwithstanding the provisions of subsection (1) of this section, a golf cart supplemental license established under Section 1 of this Act shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail

by the drink for consumption on the licensed premises. The licensee may purchase:

(a) Distilled spirits in containers as small as fifty (50) milliliters; and

(b) Wine in containers as small as one hundred (100) milliliters.

HB 459, AN ACT relating to health care practitioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act;

(3) "Cabinet" means the Cabinet for Health Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the

cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042,~~[and]~~ physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858***, and health care professionals who are licensed and have prescriptive authority under the professional licensing laws of another state***;

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and

packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body; and

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment.

Section 2. KRS 217.814 is amended to read as follows:

The following words and phrases, as used in KRS 217.815 to 217.826, shall have the following meanings, unless the context requires otherwise:

(1) "Brand name" means the name that a manufacturer of a drug or pharmaceutical places on the container thereof at the time of packaging.

(2) "Generic name" means the chemical or established name of a drug or pharmaceutical.

(3) "Practitioner" ***has the same meaning as in Section 1 of this Act***[~~means any person licensed under the professional laws of this state to prescribe and administer medicine and drugs~~].

(4) "Pharmacist" means any person licensed as such by the Kentucky Board of Pharmacy.

(5) "Equivalent drug product" means a product with the same generic name, active ingredients, strength, quantity and dosage form as the drug product identified in a prescription.

(6) "Board" means the Kentucky Board of Pharmacy.

(7) "Nonequivalent drug product formulary" means a formulary of drugs, drug products, and dosage formulations for which there are no equivalent drugs, drug products, or dosage formulations and which have been determined to be noninterchangeable or to have actual or potential bioequivalency problems by the United States Food and Drug Administration and are contained in a drug bioequivalence problems list as published in the United States Food and Drug Administration publication entitled "Approved prescription drug products with therapeutic equivalence evaluations" with supplements.

(8) "Dosage formulation" shall include, but not be limited to, those specific dosage forms which, by the nature of their physical manufacture are deemed to be nonequivalent to other similar formulations such as controlled release tablets, aerosol-nebulizer drug delivery systems and enteric coated oral dosage forms.

Section 3. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

  (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or

  (b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

(3) "Cabinet" means the Cabinet for Health Services.

(4) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(5) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;
2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.

(6) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(7) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(8) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.

(9) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

(11) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(12) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(13) "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(14) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

(15) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of

vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.

(16) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(17) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(18) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(21) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. ***"Practitioner" also includes a physician, dentist, podiatrist, or veterinarian who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state.***

(22) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(23) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

(24) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(25) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(26) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(27) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(28) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

(29) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(30) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 4. KRS 315.121 is amended to read as follows:

(1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:

(a) Unprofessional or unethical conduct;

(b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;

(c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more or the following:

1. A felony;

2. An act involving moral turpitude or gross immorality; or

3. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;

(d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;

(e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;

(f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;

(g) Engaging in or aiding and abetting an individual to engage in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," or other term which might imply that the individual is a pharmacist or pharmacist intern;

(h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;

(i) Violation of any order issued by the board to comply with any applicable law or administrative regulation; or

(j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board.

(2) Unprofessional or unethical conduct includes but is not limited to the following acts of a pharmacist or pharmacist intern:

(a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;

(b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:

1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;

2. Certified or licensed health-care personnel who are responsible for care of the patient;

3. Designated agents of the Cabinet for Health Services for the purposes of enforcing the provisions of KRS Chapter 218A;

4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or

5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;

(c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist or pharmacy intern knows or should have known of their intended use in illegal activities;

(d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;

(e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;

(f) Selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;

(g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;

(h) Obtaining any remuneration by fraud, misrepresentation, or deception; or

(i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care***; or***

(j) Failing to exercise due diligence in determining whether a prescription drug order is lawful.

(3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.

(4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency, and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.

(5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.

(6) Any licensee, permit holder, or certificate holder who is disciplined under this section for a minor violation may request in writing that the board expunge the minor violation from the licensee's, permit holder's, or certificate holder's permanent record.

(a) The request for expungement may be filed no sooner than three (3) years after the date on which the licensee, permit holder, or certificate holder has completed disciplinary sanctions imposed and if the licensee, permit holder, or certificate holder has not been disciplined for any subsequent violation of the same nature within this period of time.

(b) No person may have his or her record expunged under this section more than once.

The board shall promulgate administrative regulations under KRS Chapter 13A to establish violations which are minor violations under this subsection. A violation shall be deemed a minor violation if it does not demonstrate a serious inability to practice the profession; adversely affect the public health, safety, or welfare; or result in economic or physical harm to a person, or create a significant threat of such harm.

The Committee Amendment No. 1 to **HB 459** is as follows:

HB 459, On page 7, line 24, after the word "***professionals***" by inserting the following:

"***who are residents of and actively practicing in a state other than Kentucky and***";

and

On page 7, line 25, after the word "***state***" by inserting the following:

"***, unless the person's Kentucky license has been revoked, suspended, restricted, or probated in which case the terms of the Kentucky license shall prevail***"; and

On page 15, line 21, after the word "***veterinarian***" by inserting the following:

"***who is a resident of and actively practicing in a state other than Kentucky and***"; and

On page 15, line 22, after the word "***state***" by inserting the following:

"***, unless the person's Kentucky license has been revoked, suspended, restricted, or probated in which case the terms of the Kentucky license shall prevail***".

HB 462, AN ACT relating to interpreters for the deaf and hard of hearing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 309.301 is amended to read as follows:

(1) Effective July 1, 2003, no person shall represent himself or herself as an interpreter or engage in the practice of interpreting as defined in KRS 309.300 unless he or she is licensed in accordance with the provisions of KRS 309.300 to 309.319.

(2) The provisions of KRS 309.300 to 309.319 shall not apply to:

(a) Nonresident interpreters working in the Commonwealth less than twenty (20) days per year;

(b) Interpreters working at religious activities;

(c) Interpreters working as volunteers without compensation. However, all volunteers interpreting for state agencies must be eligible for licensure as described in KRS 309.312;

(d) Interpreters working in an emergency. An emergency is a situation where the consumer decides that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the consumer; or

(e) The activities and services of an interpreter intern or a student in training who is:

1. Enrolled in a program of study in interpreting at an accredited institution of higher learning;

2. Interpreting under the supervision of a licensed interpreter as part of a supervised program of study; and

3. Identified as an interpreter intern or student in training.

(3) Interpreters working in the common schools as defined in KRS 158.030 prior to July 1, 2003, who have not been licensed by the state, may receive a license by documenting three (3) years of experience and paying the appropriate fees.

HCR 126, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study compulsive gambling in Kentucky.

WHEREAS, the social impact of compulsive gambling has not been reviewed since the Governor's 1999 research effort regarding expanded gaming in the state; and

WHEREAS, the American Psychiatric Association clinically defines compulsive gaming as a pathological disorder that requires treatment; and

WHEREAS, the National Gambling Impact Study of 1999 contended that problem gambling then cost society at least five billion dollars ($5,000,000,000) annually in health care and social services, creditor losses, and decreased productivity; and

WHEREAS, there exists no comprehensive study of compulsive gambling in Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate shall direct the Legislative Research Commission to conduct a study regarding compulsive gambling in Kentucky. The study shall include a descriptive and economic analysis of the current status of compulsive gambling in the state and data gathered from agencies, groups, organizations, and persons that provide education, assistance, and counseling to persons and families experiencing difficulty as a result of problem or pathological gambling.

Section 2. The Legislative Research Commission shall transmit the results of the study required by Section 1 of this Resolution to the appropriate committees prior to the 2004 Regular Session of the General Assembly.

Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Natural Resources and Environment reported **HJR 140** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 140, A JOINT RESOLUTION directing the Natural Resources and Environmental Protection Cabinet (NREPC) to rescind the Kentucky Pollutant Discharge Elimination System (KPDES) general coal permit dated August 11, 2002, and reinstate the KPDES general coal permit existing prior to that date, and declaring an emergency.

WHEREAS, KPDES is Kentucky's program implementing the National Pollutant Discharge Elimination System, which requires anyone making a point source discharge of pollutants into waters of the Commonwealth to implement a detailed water quality and monitoring program; and

WHEREAS, the program requirements for a KPDES permit including monitoring of discharge pollutants from coal mining and reclamation operations normally are implemented by administrative regulation, but the NREPC has mandated testing for oil and grease without the review or approval of the Administrative Regulation Review Subcommittee; and

WHEREAS, KPDES normally requires coal operators to test for pH, alkalinity, acidity, total iron, total manganese, sulfates, and suspended solids and other pollutants as identified in 401 KAR 5:029 and 401 KAR 5:050-085 inclusive; and

WHEREAS, administrative regulations do not set forth a requirement for coal mining operations or reclamation operations to test for oil and grease; and

WHEREAS, the cost of the additional monthly tests for oil and grease will cost approximately thirty to fifty dollars ($30-$50) per sample per discharge point; and

WHEREAS, each coal mining operation and reclamation site will have numerous discharge points to test; and

WHEREAS, there are two thousand and fifty (2,050) inspectable mine units which includes active mines and reclaimed mine sites that have not obtained final bond release both of which will be affected by the new KPDES requirement to test for oil and grease;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Natural Resources and Environmental Protection Cabinet shall, within ten days after the effective date of this Resolution, rescind the KPDES general coal permit dated August 11, 2002 that requires coal mining operations and inspectable surface mining reclamation sites to test for oil and grease.

Section 2. Immediately thereafter, the Natural Resources and Environmental Protection Cabinet shall reinstate the KPDES general coal permit in effect prior to August 2002 that does not include the requirement to test for oil and grease.

Section 3. Any future testing requirements under the KPDES permit imposed on coal mining operations or inspectable surface mining reclamation operations shall be made a part of the general permit by amending the program requirements by administrative regulation pursuant to KRS Chapter 13A.

Section 4. Whereas the additional tests under the KPDES general coal permit impose an undue burden on the coal operators of the Commonwealth, an emergency is declared to exist and this Resolution takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 498, 399, 400, 443, 454, 476, 479**

Judiciary: **HB 407**

Calendar

HB 177, 238, 256, 273, 297, 364, 384, and **461** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 33**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Frankfort Rotary Club and Rotary International as members representing this notable organization gather to witness a day of the 2003 Regular Session of the Kentucky General Assembly. Further, this extraordinary organization is afforded the deepest gratitude for their immense and valuable work to develop and support the Polio Plus Program, a humanitarian effort which, in cooperation with the United Nations World Health Organization, the U.S. Centers for Disease Control and the United Nations Children's Fund, seeks to eliminate the terrible disease, polio. The success of this program is demonstrated through the prevention of over 500,000 cases of polio each year. The members of this august body are pleased to join Representative Derrick W. Graham, Representative Joe Barrows and Representative Jack L. Coleman in applauding the extraordinary work of the Frankfort Rotary Club and in extending to them a sincere welcome to the Chambers of the Kentucky House of Representatives. Done in Frankfort, Kentucky, this eighteenth day of February, in the year two thousand and three.

Legislative Citation No. 33 was adopted without objection.

Representative Stumbo moved that the rules be suspended to allow the House to recess for a Rules Committee meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 233, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **HB 233**. Agreed.

Representative A. Arnold moved that **HB 233**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 4**. (See February 18, 2003, roll call on **HB 233** - Appendix.)

HB 233, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 233**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 6 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 6** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 18, 2003, roll call on **HB 6** - Appendix.)

HB 6 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 6** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 24, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of the Committee Substitute to **HB 24**. Agreed.

Representative Denham moved that **HB 24**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 18, 2003, roll call on **HB 24** - Appendix.)

HB 24, by way of Committee Substitute, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 24**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 295 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 295** be passed.

On the roll call the vote was: **Yeas 95, Nays 3**. (See February 18, 2003, roll call on **HB 295** - Appendix.)

HB 295 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 295** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 3 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative B. Smith moved that **HJR 3** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 18, 2003, roll call on **HJR 3** - Appendix.)

HJR 3 was adopted and the title agreed to.

Representative B. Smith moved that the vote by which **HJR 3** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 25 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative Gray moved that **HJR 25** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 18, 2003, roll call on **HJR 25** - Appendix.)

HJR 25 was adopted and the title agreed to.

Representative Gray moved that the vote by which **HJR 25** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 55 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative Belcher moved that **HJR 55** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 18, 2003, roll call on **HJR 55** - Appendix.)

HJR 55 was adopted and the title agreed to.

Representative Belcher moved that the vote by which **HJR 55** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 64 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative Turner moved that **HJR 64** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 18, 2003, roll call on **HJR 64** - Appendix.)

HJR 64 was adopted and the title agreed to.

Representative Turner moved that the vote by which **HJR 64** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 294, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 294**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 294**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 294**. Agreed.

Representative Moberly moved that **HB 294**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 18, 2003, roll call on **HB 294** - Appendix.)

HB 294, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 294**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 82** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 18, 2003, roll call on **HJR 82** - Appendix.)

HJR 82 was adopted and the title agreed to.

Representative Moberly moved that the vote by which **HJR 82** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 269, with Committee Substitutes, Committee Amendments, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute No. 2 to **HB 269**. Agreed.

Representative Moberly moved the adoption of Committee Amendment No. 4 to the Committee Substitute No. 2 to **HB 269**. Agreed.

Representative Moberly moved the adoption of Committee Amendment No. 5 to the Committee Substitute No. 2 to **HB 269**. Agreed.

Representative Moberly moved the adoption of Committee Amendment No. 6 to the Committee Substitute No. 2 to **HB 269**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 9 to the Committee Substitute No 2 to **HB 269**. Agreed.

Representative Moberly moved that **HB 269**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 4**. (See February 18, 2003, roll call on **HB 269** - Appendix.)

HB 269, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 269**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 83 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 83** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 18, 2003, roll call on **HJR 83** - Appendix.)

HJR 83 was adopted and the title agreed to.

Representative Moberly moved that the vote by which **HJR 83** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved the rules be suspended for the Introduction of Bills and Resolutions and Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 1, by Representative Richards : AN ACT relating to the Golden Kentuckian Discount Program and making an appropriation therefor.

HB 2, by Representative Richards: AN ACT relating to the taxation of knowledge-based businesses.

HB 519, by Representative Crall: AN ACT relating to prevailing wage.

HB 520, by Representative Ford: AN ACT relating to standing committees of the General Assembly.

HB 521, by Representative Meeks: AN ACT relating to lead poisoning prevention.

HB 522, by Representative P. Clark: AN ACT relating to labor-management negotiations.

HB 523, by Representative Stumbo: AN ACT relating to budgets.

HB 524, by Representative Stumbo: AN ACT to revise and correct the Kentucky Revised Statutes.

HB 525, by Representative Crenshaw: AN ACT relating to a civil action against the Commonwealth for wrongful imprisonment.

HB 526, by Representative Barrows: AN ACT relating to health benefit plan coverage of infertility.

HB 527, by Representative Rasche: AN ACT relating to education personnel.

HB 528, by Representative Burch: AN ACT relating to the human service transportation delivery program, making an appropriation therefor, and declaring an emergency.

HB 529, by Representative Burch: AN ACT relating to vaccinations and declaring an emergency.

HB 530, by Representative Burch: AN ACT relating to child visitation services.

HB 531, by Representative Burch: AN ACT relating to the Health and Welfare Fund and declaring an emergency.

HB 532, by Representatives Meeks and Marzian: AN ACT relating to boxing and wrestling.

HB 533, by Representative Coleman: AN ACT relating to emergency telephone services.

HB 534, by Representative Coleman: AN ACT relating to stream construction permits.

HB 535, by Representative Coleman: AN ACT relating to controlled substances.

HB 536, by Representatives Burch, Jenkins, and Haydon: AN ACT relating to electronic gaming at racetracks as a part of the state lottery.

HB 537, by Representatives Burch, Jenkins, and Haydon: AN ACT relating to electronic gaming at racetracks as a part of the state lottery, and making an appropriation therefor.

HB 538, by Representatives Marzian, Stacy, Stein, and Simpson: AN ACT proposing to amend Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

HB 539, by Representative Stumbo: AN ACT relating to juries.

HB 540, by Representatives Riner and Bather: AN ACT relating to Public Safety.

HB 541, by Representatives Thomas and McKee: AN ACT relating to agriculture.

HB 542, by Representative Graham: AN ACT relating to property valuation administrators in charter county governments.

HB 543, by Representative Pasley: AN ACT relating to special license plates.

HB 544, by Representative Hoffman: AN ACT relating to the Disaster Relief Funding Program.

HB 545, by Representatives Buckingham, Geveden, and Palumbo: AN ACT relating to tax incentives.

HB 546, by Representative Riner: AN ACT relating to claims of medical malpractice.

HB 547, by Representative A. Arnold: AN ACT relating to retirement.

HB 548, by Representative A. Arnold: AN ACT relating to restaurant taxes.

HB 549, by Representatives Riner, Stumbo, and Richards: AN ACT relating to the display of decals of the United States flag on publicly owned vehicles.

HB 550, by Representatives Riner, Stumbo, and Richards: AN ACT relating to awards for students and teachers.

HB 551, by Representative Edmonds: AN ACT relating to special license plates for firefighters.

HB 552, by Representatives Hall, Nelson, Stewart, and Cornett: AN ACT relating to mines and minerals.

HB 553, by Representative T. Thompson: AN ACT relating to the office of the circuit clerk.

HB 554, by Representative Sims: AN ACT relating to charter county government.

HB 555, by Representative Yonts: AN ACT relating to mines and minerals.

HB 556, by Representative Stumbo: AN ACT relating to juries.

HB 557, by Representative Thomas: AN ACT relating to local government expenses.

HB 558, by Representative Brinkman: AN ACT relating to business organizations.

HB 559, by Representative Westrom: AN ACT proposing to amend Section 226 of Constitution of Kentucky relating to gambling.

HR 145, by Representatives Stumbo, Richards, Barrows, L. Clark, Callahan, and Haydon: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William K. "Kenny" Rapier and authorizing the Clerk of the House of Representatives and the Director of the Legislative Research Commission to place a memorial plaque on House chamber seat 79.

HR 146, by Representatives Adkins and Stacy: A RESOLUTION adjourning the House of Representatives in loving memory and honor of A. H. "Hardy" Jones.

HR 147, by Representative Comer: A RESOLUTION adjourning the House of Representatives in loving memory and honor of E. J. Milby.

HR 148, by Representative Comer: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lucy Bowles-Gleason.

HR 149, by Representatives Jenkins, Brinkman, L. Clark, Meeks, P. Clark, Horlander, Miller, Marzian, Crimm, Wayne, Burch, De. Butler, DeWeese, Riner, Feeley, Bather, and Riggs: A RESOLUTION congratulating the leaders and citizens of the Louisville/Jefferson County Metro Government.

HJR 150, by Representatives Richards and Moberly: A JOINT RESOLUTION establishing the Kentucky Commission on Efficient Government and declaring an emergency.

HCR 151, by Representative Bather: A CONCURRENT RESOLUTION directing the Interim Joint Committee on State Government to review the disparity study currently under contract with an Atlanta law firm, determine the type of program the Commonwealth can legally establish to increase the participation of socially and economically disadvantaged persons in state contracts, and make recommendations to the 2004 General Assembly.

Report of Committee

The Committee on Rules reported that **HB 177, 256, 273, 297, 364, 384, 11, 15, 27, 36, 41, 50, 64, 79, 114, 229, 239, 245, 255, 258, 262, 283, 298, 299, 303, 304, 352, 353, 357, 372, 391, HCR 22, 84, 85, 86, HJR 90, 94, 97, HCR 106, HJR 110, 112, HB 57, 121, 225, 250, 251, 252, 263, 265, 268, 275, 341, 365, 379, HCR 45, HB 115, 228,** and **40** have been posted for passage in the Orders of the Day for February 19, 2003.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 99, 119**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 421, 449, 435**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 316, 374, 426**

Education: **HB 494, 503, HCR 141, SB 17**

Health and Welfare: **HCR 66, HJR 67, HB 484, HJR 9**

Judiciary: **HB 407, 166, 429, 70, 415, 482, 485, 493**

Transportation: **HB 16, 83, 215, 234, 254, 274, 281, 323, 345, 375, 424, 467, HJR 91, 92, 93, 104, HCR 125, HCR 136**

The Clerk announced that the following Bills have been withdrawn from posting for Committee consideration:

Education: **HB 76, 325, 327, 378**

Report of Committees (Continued)

The Committee on State Government reported **HB 103**, with Committee Substitute attached thereto, **HB 174**, with Committee Substitute attached thereto, **HB 183, HB 314, HB 337**, with Committee Substitute attached thereto, **HB 370** with Committee Substitute and Committee Amendment attached thereto, **HB 392, HB 412, HB 418, HB 419, HB 430** with Committee Substitute and Committee Amendment attached thereto, **HB 431**, with Committee Substitute and Committee Amendment attached thereto, **HB 442**, with Committee Substitute attached thereto, **HB 470, HCR 46, HCR 89**, and **HCR 138**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 103, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 18A.225 TO 18A.229 IS CREATED TO READ AS FOLLOWS:

As used in this section, unless the context requires otherwise:

(1) (a) "Adjustment fee" means the total additional administrative and actuarial cost to the state group created by retirees from non-participating employers divided by the total number of subject employees in all non-participating employers.

(b) "Non-participating employer" means an employer having subject employees that has not entered into an agreement with the Personnel Cabinet to cover all of its subject employees as part of the state group beginning no later than January 1, 2005.

(c) "State group" means the group of persons insured pursuant to KRS 18A.225.

(d) "Subject employee" means an employee who participates in a state administered retirement system but is not in the state group.

(2) Beginning July 1, 2004, each non-participating employer shall pay an adjustment fee to the appropriate retirement system for each of its subject employees.

(a) The Personnel Cabinet shall determine the additional actuarial cost to the state group because of retirees from non-participating agencies using a separate rating of the retirees from non-participating agencies.

(b) The Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall determine the administrative costs to be incurred under this section and notify the Personnel Cabinet of the amounts, including lists of non-participating employers and the number of active employees of non-participating employers who participate in the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System. The administrative costs shall include all expenses associated with the administration of the insurance subsidy account, including attorney fees and court costs, incurred by the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System or to which either entity may be subject by reason of their activities in administering the insurance subsidy escrow account or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

(c) The Personnel Cabinet shall notify each non-participating employer of the adjustment fee.

(d) Except as provided in subsection (3) of this section, the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall deposit the amounts paid by non-participating employers into the insurance subsidy escrow account separately maintained by each. The insurance subsidy escrow account shall be invested in accordance with KRS 386.020 and all deposits and proceeds shall be used only for the purposes authorized in this section.

(e) The adjustment fee may be altered based on money accumulated in the insurance subsidy escrow accounts.

(3) Beginning July 1, 2004, the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall remove funds each month from the funds received from non-participating employers before deposit of the balance into the appropriate insurance subsidy escrow account to pay their respective administrative costs.

(4) Beginning January 1, 2006, the health insurance premium paid for a retiree from a non-participating employer shall include the adjustment fee but otherwise shall not differ from the premium paid by other state group members. A retiree shall be considered to be retired from his or her last employer.

(5) The Attorney General shall take necessary action to recover funds from non-participating employers who have become delinquent in their adjustment fee payments. No retired member or beneficiary shall have his or her health insurance coverage reduced or terminated because of any of the provisions of this section.

(6) Neither the Kentucky Retirement Systems nor the Kentucky Teachers' Retirement System shall have any liability to the Personnel Cabinet, carrier, employer, employee, retiree, beneficiary, or dependent for any claim or loss suffered arising out of the administration of the insurance subsidy escrow account as set forth in this section. The Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall be indemnified by the insurance subsidy escrow account against any loss, damage, or expense, including attorney's fees and court costs, incurred by the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System or to which either entity may be subject by reason of their activities in administering the insurance subsidy escrow account or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

The Committee Substitute to **HB 103** is as follows:

HB 103, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 18A.225 TO 18A.229 IS CREATED TO READ AS FOLLOWS:

As used in this section, unless the context requires otherwise:

(1) (a) "Adjustment fee" means the total additional administrative and actuarial cost to the state group created by unescorted retirees. The assessment fee shall be expressed as a percentage of gross salary determined by dividing the total estimated actuarial cost of unescorted retirees by the total estimated payroll for employers participating in the County Employees Retirement System.

(b) "State group" means the group of persons insured pursuant to KRS 18A.225.

(c) "Unescorted retiree" means a retiree whose last employer participates in the County Employees Retirement System and has not entered into an agreement with the Personnel Cabinet to include its employees in the state

group. The term shall also include the dependents of the retiree covered under the retiree's health insurance through the state group. A retiree and dependents will cease to be unescorted January 1 of the calendar year for which the retiree's former employer has entered into an agreement with the Personnel Cabinet to include its employees in the state group.

(2) Beginning July 1, 2005, each employer participating in the County Employees Retirement System shall pay an adjustment fee to the retirement system.

(a) The Personnel Cabinet shall determine the additional actuarial cost to the state group because of unescorted retirees who enter the state group during the 2004 calendar year and each subsequent year using a separate rating of the unescorted retirees.

(b) The Kentucky Retirement Systems shall determine the administrative costs to be incurred under this section and notify the Personnel Cabinet of the amount, and the total estimated payroll for the County Employees Retirement System. The Personnel Cabinet and the retirement system shall share information necessary to determine the adjustment fee. The administrative costs shall include all expenses associated with the administration of the insurance subsidy account, including attorney fees and court costs, incurred by the Kentucky Retirement Systems or to which it may be subject by reason of its activities in administering the insurance subsidy escrow account or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

(c) The Personnel Cabinet shall notify each employer of the adjustment fee.

(d) Except as provided in subsection (3) of this section, the Kentucky Retirement Systems shall deposit the amounts paid by employers into the insurance subsidy escrow account. The insurance subsidy escrow account shall be invested in accordance with KRS 386.020 and all deposits and proceeds shall be used only for the purposes authorized in this section.

(e) The adjustment fee may be altered based on money accumulated in the insurance subsidy escrow account.

(3) Beginning July 1, 2005, the Kentucky Retirement Systems shall remove funds each month to pay administrative costs from the funds received from employers before depositing the balance into the insurance subsidy escrow account.

(4) Beginning January 1, 2007, the health insurance premium paid for an unescorted retiree shall include the adjustment fee but otherwise shall not differ from the premium paid by other state group members. A retiree shall be considered to be retired from his or her last employer.

(5) The Attorney General shall take necessary action to recover funds from employers who have become delinquent in their adjustment fee payments. No retired member or beneficiary shall have his or her health insurance coverage reduced or terminated because of any of the provisions of this section.

(6) The Kentucky Retirement Systems shall have no liability to the Personnel Cabinet, carrier, employer, employee, retiree, beneficiary, or dependent for any claim or loss suffered arising out of the administration of the insurance subsidy escrow account as set forth in this section. The Kentucky Retirement Systems shall be indemnified by the insurance subsidy escrow account against any loss, damage, or expense, including attorney's fees and court costs, incurred by the Kentucky Retirement Systems or to which it may be subject by reason of its activities in administering the insurance subsidy escrow account, or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

HB 174, AN ACT relating to state employee health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section;[~~and~~]

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state

toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;

2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program***; and***

(c) "State group" means all employees who participate in the health insurance coverage provided to employees under this section.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. ***The Personnel Cabinet shall establish negotiating procedures, quality standards, and cost goals to guide it in the active negotiation and purchase of health insurance for the state group.*** The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any ***entity***[~~agency~~] participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account. *No entity participating in the state-sponsored health insurance plan shall retain forfeitures from the flexible spending accounts under any circumstances. Notwithstanding any other provision of the Kentucky Revised Statutes, the budget bill and the budget memorandum shall not authorize an entity participating in the state-sponsored health insurance plan to retain all or part of forfeitures from flexible spending accounts nor transfer those funds other than as allowed under this paragraph. The state-sponsored health insurance plan shall use all flexible spending account forfeitures from both state and local government participants towards directly reducing premium costs for employees. Any and all savings realized pursuant to this section shall be applied directly toward reducing premium costs paid by employees who participate in the state-sponsored health insurance plan.*

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(i) Each municipal, consolidated local, urban-county, charter county, and county government, state institution of postsecondary education, and any other employer of state employees as defined in KRS 18A.225, whose retirees participate in the state group, but whose active employees are not participants in the state group, shall be responsible for the actuarial difference in cost of their retirees by being assessed retrospectively a per-participant actuarial difference charge for the difference in the average per-participant cost of retirees of all employers whose active members do not participate in the state group and the average per-participant cost of all employees participating in the state group, as determined by an independent actuary hired by the secretary of the Personnel Cabinet. The secretary may add to the per-participant actuarial difference charge a surcharge in the amount of the total cost for actuarial services divided by the total number of employees subject to the per-participant actuarial difference charge. Any and all savings realized pursuant to this section shall be applied directly toward reducing premium costs paid by employees for all who participate in the state-sponsored health insurance program.

(j) On and after the effective date of this Act, dependent health insurance premiums shall be subsidized by the Commonwealth at a rate of seventy-five percent (75%) of the premium charged for dependent health insurance. The Commonwealth shall continue to provide one hundred percent (100%) of the premium charged for individual coverage.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium

or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

(16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(17) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

(18) The secretary of the Personnel Cabinet shall develop, maintain, and implement a program and procedures to join a multistate pooling initiative in which two (2) or more states work together to reduce the cost of pharmaceuticals purchased or paid for by employees in the state group.

(19) The Personnel Cabinet shall actively pursue the consolidation of state employees into one (1) fully insured preferred provider organization (PPO) plan and one (1) self-funded preferred provider organization (PPO) plan and shall include a report on the status of such pursuit in the October, 2003 annual report submitted pursuant to KRS 18A.226.

The Committee Substitute to **HB 174** is as follows:

HB 174, AN ACT relating to state employee health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section;~~[and]~~

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;

2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program***; and***

(c) "State group" means all employees who participate in the health insurance coverage provided to employees under this section.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Furthermore, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. ***The Personnel Cabinet shall establish negotiating procedures, quality standards, and cost goals to guide it in the active negotiation and purchase of health insurance for the state group.*** The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any ***entity***~~[agency]~~ participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account. ***No entity participating in the state-sponsored health insurance plan shall retain forfeitures from the flexible spending accounts under any circumstances. Notwithstanding any other provision of the Kentucky Revised Statutes, the budget bill and the budget memorandum shall not authorize an entity participating in the state-sponsored health insurance plan to retain all or part of forfeitures from flexible spending accounts nor transfer those funds other than as allowed under this paragraph. The state-sponsored health insurance plan shall use all flexible spending account forfeitures from both state and local government participants towards directly reducing premium costs for employees. Any and all savings realized pursuant to this section shall be applied directly toward reducing premium costs paid by employees who participate in the state-sponsored health insurance plan.***

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

(16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in

the county where the plan selected is located.

(17) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

(18) The secretary of the Personnel Cabinet shall develop, maintain, and implement a program and procedures to join a multistate pooling initiative in which two (2) or more states work together to reduce the cost of pharmaceuticals purchased or paid for by employees in the state group.

HB 183, AN ACT relating to mandated health insurance benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.948 is amended to read as follows:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan***, as defined in KRS 304.17A-005:***

(a) Provide a specified benefit***;***~~[,]~~

(b) Include a specified coverage***;***~~[,]~~

(c) Pay, indemnify, or reimburse for a specified medical service***;***~~[,]~~ or

(d) Pay, indemnify, or reimburse~~[impose or regulate provisions concerning]~~ specified health care providers ***for specific health care services***.

(2) ***(a)*** On and after ***the effective date of this Act***~~[April 10, 1998]~~, in the General Assembly, a sponsor of a bill ***or***~~[and any member proposing]~~ an amendment~~[to a bill]~~ that contains a mandated health benefit shall ***cause***~~[submit to the standing committee to which the bill has been referred]~~ a financial impact statement ***to be prepared and attached to the measure***~~[on health insurance coverage rates]~~ before final consideration by the ***standing*** committee ***to which the measure has been referred.***

(b) A bill in the orders of the day in the House or the Senate which does not have attached a financial impact statement as required by this section shall be retained in the orders of the day but passed over in the orders of the day until the financial impact statement is attached. Members may require, by a majority vote, that a financial impact statement be prepared on any bill and on any amendment in the orders of the day. Any member proposing an amendment from the floor which contains a mandated health benefit shall cause a financial impact statement to be prepared and attached to the amendment. Until the time a financial impact statement is prepared and attached to an amendment that contains a mandated health benefit, action on the proposed amendment shall not be in order.

(3) ***The financial impact statement shall be prepared by the Department of Insurance as provided in subsection (6) of this section.***

(4) The sponsor of a bill or amendment that contains a mandated health benefit shall request the Department of Insurance, as soon as practicable, to prepare a financial impact statement. If the sponsor submits a request prior to filing the measure with the clerk of the House or Senate, the department shall keep the measure confidential until the sponsor authorizes public distribution. The department shall keep all financial impact statements and all requests for statements confidential until the person requesting the financial impact statement authorizes public distribution.

(5) A majority of the members present at a meeting of any~~[Upon request of a]~~ standing committee of the General Assembly, ***acting through the committee chair, may request*** the commissioner of the Department of Insurance ***to prepare a***~~[shall review any]~~ financial impact statement ***for any measure before***~~[filed with]~~ the committee and ***submit the statement in accordance with subsection (6) of this section***~~[report the results of the review to the committee]~~.

(6) (a) The financial impact statement shall be in writing and signed by the commissioner of the Department of Insurance or the commissioner's designee and shall determine the extent to which:

1. The mandated health benefit will increase or decrease the administrative expenses of insurers;

2. The mandated health benefit will increase or decrease premiums; and

3. The mandated health benefit will impact the total cost of health care in the Commonwealth, including any potential cost savings that may be realized.

(b) 1. If the sponsor of a bill that contains a mandated health benefit submits the request for a financial impact statement prior to filing the bill, the financial impact statement shall be completed as soon as possible, but no later than thirty (30) days after the request by the sponsor, unless the sponsor and the commissioner of the Department of Insurance agree otherwise.

2. The financial impact statement shall be completed as soon as possible, but no later than thirty (30) days after the request by the sponsor of a measure before a standing committee under subsection (2) of this section or by the committee chair under subsection (5) of this section.

3. The financial impact statement shall be completed as soon as possible after the request by a majority vote of the House or Senate or by the sponsor of a floor amendment pursuant to subsection (2)(b) of this section.

HB 314, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.576 is amended to read as follows:

(1) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the system, setting forth at what time the retirement is to become effective, if the effective date shall be after his last day of service and subsequent to the filing of the notice at the retirement office.

(2) The member shall have the right to elect to have his retirement allowance payable under subsection (3), (4), or (6) of this section or any one (1) of the plans set forth in KRS 61.635.

(3) ***(a)*** Effective August 1, 1990, a member of the Kentucky State Police Retirement System may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the County Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the Kentucky Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(b) Effective July 1, 2003, a member of the County Employees Retirement System covered by this section who has attained at least twenty-three (23) years of service under KRS 16.545 shall receive an annual retirement allowance, payable monthly during his lifetime, equal to three percent (3%) of final compensation for the next five (5) years credited under KRS 16.545. The retirement allowance for all service except the five (5) years shall be calculated as provided in paragraph (a) of this subsection.

(4) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (3) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978, or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years. Effective with any insurance contract procured, or self-insurance plan instituted, after July 15, 1990, a member who retired prior to June 17, 1978, and his spouse and dependents or beneficiary shall receive insurance benefits pursuant to KRS 61.702 upon payment by the member or beneficiary of the entire cost of the required insurance premium.

(5) Notwithstanding any other provisions of this section, upon written notification to the system, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(6) In lieu of any other benefits due under KRS 16.505 to 16.652, a member who has attained age fifty-five (55) and who has attained at least one (1) month of service credit but no more than fifty-nine (59) months of service credit may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

HB 337, AN ACT relating to public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.601 is amended to read as follows:

The board shall have all powers necessary and convenient to carry out its purposes, including the power to:

(1) Hold as trustee for the benefit of the people of Kentucky the lands of the hospital, custody and control of which, in that fiduciary capacity, are hereby transferred to the board. The lands shall remain in the board's trusteeship until they are disposed of in accordance with subsection (5) of this section;

(2) Solicit and accept appropriations, gifts, or grants from any public or private source, within or outside the Commonwealth, and expend those funds for any lawful purpose in order to administer, operate, maintain, or improve the lands of the hospital. The authority's funds shall be invested in accordance with KRS 42.500.

(3) Develop and revise a master plan for the use of the hospital lands in the public interest, and require that uses of the land, and any buildings or other improvements located on the land, comply with the master plan adopted by the board;

(4) Subject to the availability to the authority of sufficient funds:

(a) Contract ***in writing*** through the Finance and Administration Cabinet, under KRS Chapters 45A and 56, for the removal of asbestos from buildings located on the hospital lands and for any other remedial action that may be needed to eliminate any hazardous or potentially hazardous, environmentally related condition or problem affecting the hospital lands;

(b) Demolish any building or other structure located on the hospital grounds; and

(c) Renovate, remodel, repair, or reconstruct any building or other structure, located on the hospital grounds, that the authority deems to be of historic interest or of contemporary use consistent with community needs;

(5) In the sound exercise of its discretion, convey the hospital land in fee simple, or lease the land for a period of not more than ninety-nine (99) years, subject to terms and conditions that the board determines to be in the public interest, to a public entity for maintenance and use in accordance with the master plan adopted by the board under subsection (3) of this section. The secretary of the Finance and Administration Cabinet, with the approval of the Governor, shall execute the lease or deed on behalf of the Commonwealth, as required by KRS 45A.045(4);

(6) Employ, without regard to KRS Chapter 18A, or contract ***in writing***, in accordance with KRS Chapter 45A, for the services of accountants, attorneys, architects, engineers, contractors, and other consultants and employees that the board determines are required, and fix and pay their compensation from funds available to the board; and

(7) Promulgate administrative regulations, in accordance with KRS Chapter 13A, that the board deems necessary to facilitate the implementation of its powers under this section, adopt bylaws governing the internal operating policies and procedures of the board, and do all other things, perform all other acts, and take all other action the board determines to be necessary to carry out its purposes and authority under KRS 56.600 to 56.602.

Section 2. KRS 96.260 is amended to read as follows:

The board of waterworks shall be vested with all the authority and privileges, exercise all the franchises, and have possession, control, and management of all the property, of the corporation of which the consolidated local government or city owns all the stock. It may make contracts and sue and be sued, but only in the name of the corporation. ***Any contract made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.***

Section 3. KRS 148.563 is amended to read as follows:

(1) An executive director shall be appointed in accordance with KRS 12.050.

(a) The executive director shall at all times attempt to accommodate the desires expressed by the board of directors.

(b) The executive director shall keep all minutes, records, and orders of the authority and shall be responsible for the preservation of all the documents. The documents shall be public records subject to KRS 61.870 to 61.884, relating to open records.

(2) The staff of the authority, including its executive director, shall be employees of the Tourism Development Cabinet.

(3) Any contract made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 4. KRS 151B.465 is amended to read as follows:

All powers, duties, and responsibilities conferred upon the corporation by KRS 151B.450 to 151B.475 shall be exercised by the board of directors of the corporation. They shall include, but shall not be limited to, the following:

(1) To establish and administer a program for providing low-interest loans to qualified borrowers through qualified lenders for the acquisition of assistive technology.

(2) To establish criteria for participation in the loan program as a qualified lender or qualified borrower and to establish the terms and conditions under which loans are to be made. The board shall contract with one (1) or more federal-approved or state-approved lending institutions for the purpose of making loans to qualified borrowers, the qualified borrower having been preapproved by the board consistent with criteria established by the board and promulgated in administrative regulations.

(3) To enter into agreements, contracts, or other documents with any federal, state, or local agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of KRS 151B.450 to 151B.475. ***All contracts made by or on behalf of the board of directors shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A. 690, shall be subject to KRS 45A.690 to 45A.725.***

(4) To accept for inclusion in the fund appropriations, grants, revenue sharing, devises, gifts, bequests, donations, federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(5) To incorporate a nonprofit organization pursuant to KRS Chapter 273 which qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, for the purpose of receiving tax-deductible gifts, donations, and bequests.

(6) To invest moneys from the fund with qualified lenders for the purposes of providing interest reductions, interest buy

downs, and loan guarantees.

(7) To sue and be sued in its own name.

(8) To adopt an official seal and alter it as necessary.

(9) To promulgate administrative regulations through the cabinet and pursuant to KRS Chapter 13A to establish the policies and procedures under which the powers, duties, and responsibilities conferred by KRS 151B.450 to 151B.475 are to be carried out.

Section 5. KRS 154.33-535 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.33-501 to 154.33-585, including, but not limited to:

(1) Adopt and have a common seal and alter the same at pleasure;

(2) Sue and be sued in its own name and plead and be impleaded;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.33-501 to 154.33-585*. All contracts and agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725*;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.33-550;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, and in such manner and under terms as may be provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds; however, any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; however, the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as may be deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services at any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform other and further acts as may be necessary to carry out the corporation functions and purposes as explicitly stated or implied by KRS 154.33-501 to 154.33-585.

Section 6. KRS 154.33-605 is amended to read as follows:

(1) The board shall develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) Five (5) members of the board shall constitute a quorum, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations governing the operation, maintenance, or use of property under its custody and control in accordance with KRS Chapter 13A.

(5) Minutes and records of all meetings of the board shall be retained, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at the board's pleasure.

(a) The executive director shall act under the direction of the board in employing necessary staff to perform its duties and exercise its powers.

(b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all of the documents, which shall be public records under KRS 61.870 to 61.884.

(8) The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.

(9) All contracts made by or on behalf of the corporation shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 7. KRS 154.40-040 is amended to read as follows:

(1) The board may develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) A quorum of the board shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations under KRS Chapter 13A to govern the operation, maintenance, or use of property under its custody and control.

(5) Minutes and records of all meetings of the board shall be kept, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between meetings of the board to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at its pleasure.

(a) The executive director shall act under the direction of the board in employing necessary staff to perform the corporation's duties and exercise its powers.

(b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all the documents, which shall be public records under KRS 61.870 to 61.884.

(8) All contracts made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 8. KRS 154.85-035 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.85-001 to 154.85-085, including, but not limited to:

(1) Have a common seal which may be altered at will;

(2) Sue and be sued, and complain and defend in its corporate name;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.85-001 to 154.85-085, including, but not limited to, contracting with other agencies for the performance of its functions, and contracting with the Cabinet for Economic Development, or its successor, in the performance of specific state economic development functions and activities***. All contracts and agreements made by or on behalf of the corporation shall be in writing. All personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.85-050;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds and bond anticipation notes or other obligations payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, in the manner and under terms as provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation, and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds, but any deposit of the corporation in excess of that amount covered

by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities, but the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in amounts, and from insurers, as deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services to any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform any other acts necessary to carry out the corporation's functions and purposes as explicitly stated or implied by KRS 154.85-001 to 154.85-085.

Section 9. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the secondary wood products industry as provided for in KRS 154.47-055;

(2) Reviewing and recommending to the Cabinet for Economic Development the approval of proposals to establish business networks for businesses and industries engaged in any value-added processing of raw wood products or the manufacturing of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet for Economic Development to promote the development of business networks among secondary wood products businesses and industries;

(3) Advising the Natural Resources and Environmental Protection Cabinet and the Labor Cabinet on regulatory matters which impact the economic competitiveness and development of the state's secondary wood products industry;

(4) Advising the Labor Cabinet regarding modifications to the state workers' compensation laws in an effort to make Kentucky's secondary wood products industry more competitive;

(5) Advising the Finance and Administration Cabinet regarding procurement of Kentucky-made secondary wood products by state agencies, including the procurement of these products by the Department of Parks as part of any proposed state parks renovation projects;

(6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the corporation's operations, functions, and responsibilities;

(7) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities***. All contracts and agreements made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(8) Establishing benchmarks for the purpose of evaluating workforce training and technology transfer programs applicable to the secondary wood products industry;

(9) Employing consultants and other persons as may be required in the judgment of the board to be essential to the board's operations, functions, and responsibilities; and

(10) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

Section 10. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

  (a) Sue and be sued in its corporate name;

  (b) Adopt a corporate seal and a symbol;

  (c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

  (d) Appoint agents upon which process may be served;

  (e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;

  (f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and

(g) Make, execute, and effectuate any and all agreements or contracts including:

1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars ($100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars ($400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar ($400,000) threshold. Contracts for personal service ***and memoranda of agreement, as defined in KRS 45A.690,*** shall be reviewed in accordance with KRS 45A.690 to 45A.725.

2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

All contracts and agreements made by or on behalf of the corporation shall be in writing.

(2) The corporation shall:

(a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

(b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include but are not limited to disclosure of gross revenues, expenses, and net proceeds for the period;

(c) Adopt by administrative regulation a system of continuous internal audits;

(d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation;

(e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;

(f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

(g) The Kentucky Lottery Corporation and the Cabinet for Families and Children shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Families and Children on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize; and

(h) The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan and shall transfer the amount to the authority to credit the account of the person in default. Any amount remaining after the deduction of the loan amount shall be paid to the person.

Section 11. KRS 164A.060 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

(1) To make or participate in the making of insured student loans.

(2) To purchase or participate in the purchase of insured student loans, which purchase may be from eligible lenders.

(3) To sell or participate in the sale of insured student loans, which sale may be to eligible lenders or to the student loan marketing association.

(4) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing or causing to be made, purchased, or serviced insured student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.

(5) To procure insurance in respect of all student loans made or purchased by the corporation.

(6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any insured student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.

(7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees, and such other expenses as are necessary or incident to any such borrowing.

(8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.

(9) To make, execute, and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of this chapter. ***All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.***

(10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(11) To sue and be sued in its own name and to plead and be impleaded.

(12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky Higher Education Assistance Authority and such other regional offices as may be required.

(13) To adopt an official seal and alter the same at pleasure.

(14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.

(15) To employ fiscal consultants, attorneys, counselors, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation.

(16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.

(17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this chapter.

(18) To service and collect educational loans for other lenders, holders, and educational institutions.

Section 12. KRS 175.450 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate, and regulate turnpike projects at such locations within the Commonwealth as may be determined by the authority and the department and provided for in an agreement or agreements;

(2) To acquire sites abutting on any turnpike project, as a part of such project, and to construct or contract for the construction of buildings and appurtenances for service stations, garages, restaurants and other services and to lease the same to parties other than the department for any of such purposes (or, if leases to such parties cannot be made on acceptable terms, to operate or to lease to the department any or all of the same) in such manner and under such terms as may be provided in an agreement;

(3) To issue turnpike revenue bonds of the authority payable solely from the tolls, revenues, rentals and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any one or more turnpike projects, and to refund any of its bonds;

(4) To fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it, except to the extent that such powers are surrendered to the department pursuant to a lease;

(5) To combine for financing purposes any two (2) or more turnpike projects;

(6) To lease as lessor any turnpike project or projects to the department as lessee, pursuant to the terms and provisions of a lease;

(7) To establish and enforce rules and regulations for the use of any turnpike project, except during any period when such powers are provided to be exercised by the department pursuant to a lease;

(8) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same, with the approval of the department;

(9) To designate the locations and establish, limit and control such points of ingress to and egress from each turnpike project as the authority and the department may determine to be necessary or desirable to insure the proper operation and

maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(10) To make and enter into such contracts and agreements with the department and other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter. ***All contracts and agreements made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(11) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) To receive and accept from the Commonwealth, the department, and any federal agency, grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(13) To expend any funds provided under the authority of this chapter in advertising the facilities and services of a turnpike project or projects to the traveling public; and

(14) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Section 13. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

(a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

(b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

Section 14. KRS 224A.070 is amended to read as follows:

The authority may carry out and perform the following essential governmental functions of statewide import and concern:

(1) To promulgate administrative regulations and adopt bylaws for the regulation of its affairs and the conduct of its business, which shall define with specificity conditions precedent under which applications for loans or grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which the authority may act, together with other employees, including for example only, engineers, accountants, and attorneys, necessary and appropriate to enable the authority to fulfill its duties, functions, and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service and sewer service in the state, such tax to be equal to not more than two percent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for loans or grants;

(7) To lease an infrastructure project or make loans or grants to or purchase or refinance obligations of any governmental agency for the purpose of assisting the governmental agency in the construction of an infrastructure project. A lease, loan, or grant shall be in accordance with the terms and conditions of an assistance agreement by and between the authority and the governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, the real property or rights therein, including rights-of-way, easements and licenses, and the personal property reasonably deemed necessary to effectuate the development, implementation, financing, and construction or acquisition of any infrastructure project, and to make the properties available to a governmental agency in connection with an infrastructure project;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of the assistance agreements, and to use and employ the service charges in accordance with the provisions of this chapter, the service charges to constitute authority revenues;

(10) To enter into and enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer infrastructure projects financed by leases, loans or grants which have been undertaken by governmental agencies;

(11) To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this chapter***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(12) To bid at a competitive public sale of obligations of a governmental agency or negotiate the purchase or sale of obligations of a governmental agency, notwithstanding any other law to the contrary;

(13) To borrow money and issue negotiable bonds and notes pursuant to this chapter;

(14) To lend money to governmental agencies or to advance moneys from the infrastructure revolving fund to the federally assisted wastewater revolving fund in order to match federal moneys that may become available;

(15) To contract with the federal government as to any infrastructure project;

(16) To participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction or repair of any infrastructure project; and

(17) To have, possess, and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 15. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

  (a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation;

  (b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

  (c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

  (d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

  (e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the

powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management;

(4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;

(11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;

(13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or agreement of any kind to which the corporation is a party;

(14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;

(15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;

(19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

  (a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

  (b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

  (c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

  (d) Any other investment authorized by law for the investment of funds of the Commonwealth;

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage, security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation

by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;

(23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 16. KRS 248.480 is amended to read as follows:

(1) As used in this section:

(a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' attorneys general dated November 23, 1998;

(b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;

(c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and

(d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.

(2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(3) The corporation shall be directed by a board of directors, which shall include:

(a) The Governor, who shall serve as chair of the corporation;

(b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;

(c) The Attorney General, who shall serve as secretary of the corporation;

(d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;

(e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;

(f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;

(g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and

(h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.

(4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

(5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.

(6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and

other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the settlement trust.

(7) The corporation's duties shall include, but not be limited to:

(a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;

(b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;

(c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;

(d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;

(e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;

(f) Submitting information required by the trustee of the settlement trust;

(g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions***. All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section; and

(i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary.

(8) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

Section 17. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky Grain Insurance Corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the Commissioner of the Department of Agriculture, who shall serve as president; the Attorney General, who shall serve as secretary; the State Treasurer, who shall serve as treasurer; the State Auditor; two (2) representatives from the Kentucky Feed and Grain Association selected by the Commissioner; two (2) representatives from the Kentucky Farm Bureau Federation selected by the Commissioner; and two (2) representatives from the Kentucky National Farmers Organization selected by the Commissioner. The Commissioner of Agriculture, Attorney General, State Treasurer, and State Auditor may each designate a person to represent him. The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the Commissioner from which the Commissioner shall make his appointments. The appointed members of the board shall serve until June 30, 1992. Thereafter, the appointed members of the board shall serve for a term of four (4) years or until their successor is appointed and qualified. Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the Department of Agriculture, the Attorney General, and the State Auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under KRS 251.640;

(f) Administer the Kentucky Grain Insurance Fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the Commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

(4) All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 18. KRS 262.908 is amended to read as follows:

(1) The PACE board shall have the following responsibilities:

(a) Implementing a Purchase of Agricultural Conservation Easement Program in the Commonwealth as provided by this section, including the development and promulgation of any administrative regulations required;

(b) Making decisions in connection with each specific easement purchase to be made with Commonwealth funds from the agricultural enhancement fund;

(c) Evaluating, as necessary, potential sites within the Commonwealth on which agricultural conservation easements or other property interests are to be acquired, applying the criteria set forth in this section and administrative regulations; and

(d) Employing the staff necessary to implement the provisions of this section.

(2) (a) The PACE board shall establish fair, equitable, objective, nondiscriminatory procedures for determining easement purchase priorities.

(b) The board shall promulgate administrative regulations establishing policies and procedures for determining easement purchase priorities and for purchasing easements.

(c) The program criteria shall be designed to ensure that land is selected for easement purchase because it will make a significant contribution to agricultural production.

(3) Any contract made by or on behalf of the PACE board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 19. KRS 342.811 is amended to read as follows:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to KRS Chapter 304, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue;

(2) Hire a manager to administer the authority in accordance with the policies and procedures of the board;

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4) Adopt a corporate seal;

(5) Develop and file with the Legislative Research Commission bylaws for the operation of the authority;

(6) Develop bylaws to establish the contingent liability of the policyholders for assessment purposes required in KRS 342.823;

(7) Examine and adopt an annual operating budget for the authority;

(8) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(9) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds;

(10) Develop policy for the operation of the authority consistent with its mission and fiduciary responsibility;

(11) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A, including competitive bidding procedures;

(12) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(13) Pursuant to KRS Chapter 304, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(14) Pursuant to KRS 342.823, assess policyholders;

(15) Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;

(16) Approve a personnel policy subject to the provisions of KRS 342.813;

(17) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board***. All***

contracts made by or on behalf of the board shall be in writing. Any personal service contractor memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725;

(18) Conduct annually an independent audit of the financial condition of the authority; and

(19) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of KRS 342.801 to 342.843.

The Committee Substitute to **HB 337** is as follows:

HB 337, AN ACT relating to public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.601 is amended to read as follows:

The board shall have all powers necessary and convenient to carry out its purposes, including the power to:

(1) Hold as trustee for the benefit of the people of Kentucky the lands of the hospital, custody and control of which, in that fiduciary capacity, are hereby transferred to the board. The lands shall remain in the board's trusteeship until they are disposed of in accordance with subsection (5) of this section;

(2) Solicit and accept appropriations, gifts, or grants from any public or private source, within or outside the Commonwealth, and expend those funds for any lawful purpose in order to administer, operate, maintain, or improve the lands of the hospital. The authority's funds shall be invested in accordance with KRS 42.500.

(3) Develop and revise a master plan for the use of the hospital lands in the public interest, and require that uses of the land, and any buildings or other improvements located on the land, comply with the master plan adopted by the board;

(4) Subject to the availability to the authority of sufficient funds:

(a) Contract ***in writing*** through the Finance and Administration Cabinet, under KRS Chapters 45A and 56, for the removal of asbestos from buildings located on the hospital lands and for any other remedial action that may be needed to eliminate any hazardous or potentially hazardous, environmentally related condition or problem affecting the hospital lands;

(b) Demolish any building or other structure located on the hospital grounds; and

(c) Renovate, remodel, repair, or reconstruct any building or other structure, located on the hospital grounds, that the authority deems to be of historic interest or of contemporary use consistent with community needs;

(5) In the sound exercise of its discretion, convey the hospital land in fee simple, or lease the land for a period of not more than ninety-nine (99) years, subject to terms and conditions that the board determines to be in the public interest, to a public entity for maintenance and use in accordance with the master plan adopted by the board under subsection (3) of this section. The secretary of the Finance and Administration Cabinet, with the approval of the Governor, shall execute the lease or deed on behalf of the Commonwealth, as required by KRS 45A.045(4);

(6) Employ, without regard to KRS Chapter 18A, or contract ***in writing***, in accordance with KRS Chapter 45A, for the services of accountants, attorneys, architects, engineers, contractors, and other consultants and employees that the board determines are required, and fix and pay their compensation from funds available to the board; and

(7) Promulgate administrative regulations, in accordance with KRS Chapter 13A, that the board deems necessary to facilitate the implementation of its powers under this section, adopt bylaws governing the internal operating policies and procedures of the board, and do all other things, perform all other acts, and take all other action the board determines to be necessary to carry out its purposes and authority under KRS 56.600 to 56.602.

Section 2. KRS 148.563 is amended to read as follows:

(1) An executive director shall be appointed in accordance with KRS 12.050.

(a) The executive director shall at all times attempt to accommodate the desires expressed by the board of directors.

(b) The executive director shall keep all minutes, records, and orders of the authority and shall be responsible for the preservation of all the documents. The documents shall be public records subject to KRS 61.870 to 61.884, relating to open records.

(2) The staff of the authority, including its executive director, shall be employees of the Tourism Development Cabinet.

(3) Any contract made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 3. KRS 151B.465 is amended to read as follows:

All powers, duties, and responsibilities conferred upon the corporation by KRS 151B.450 to 151B.475 shall be exercised by the board of directors of the corporation. They shall include, but shall not be limited to, the following:

(1) To establish and administer a program for providing low-interest loans to qualified borrowers through qualified lenders for the acquisition of assistive technology.

(2) To establish criteria for participation in the loan program as a qualified lender or qualified borrower and to establish the terms and conditions under which loans are to be made. The board shall contract with one (1) or more federal-approved or state-approved lending institutions for the purpose of making loans to qualified borrowers, the qualified borrower having been preapproved by the board consistent with criteria established by the board and promulgated in administrative regulations.

(3) To enter into agreements, contracts, or other documents with any federal, state, or local agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of KRS 151B.450 to 151B.475. ***All contracts made by or on behalf of the board of directors shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A. 690, shall be subject to KRS 45A.690 to 45A.725.***

(4) To accept for inclusion in the fund appropriations, grants, revenue sharing, devises, gifts, bequests, donations, federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(5) To incorporate a nonprofit organization pursuant to KRS Chapter 273 which qualifies as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, for the purpose of receiving tax-deductible gifts, donations, and bequests.

(6) To invest moneys from the fund with qualified lenders for the purposes of providing interest reductions, interest buy downs, and loan guarantees.

(7) To sue and be sued in its own name.

(8) To adopt an official seal and alter it as necessary.

(9) To promulgate administrative regulations through the cabinet and pursuant to KRS Chapter 13A to establish the policies and procedures under which the powers, duties, and responsibilities conferred by KRS 151B.450 to 151B.475 are to be carried out.

Section 4. KRS 154.33-535 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.33-501 to 154.33-585, including, but not limited to:

(1) Adopt and have a common seal and alter the same at pleasure;

(2) Sue and be sued in its own name and plead and be impleaded;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.33-501 to 154.33-585***. All contracts and agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources, including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.33-550;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, and in such manner and under terms as may be provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds; however, any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; however, the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as may be deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services at any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform other and further acts as may be necessary to carry out the corporation functions and purposes as explicitly stated or implied by KRS 154.33-501 to 154.33-585.

Section 5. KRS 154.33-605 is amended to read as follows:

(1) The board shall develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) Five (5) members of the board shall constitute a quorum, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations governing the operation, maintenance, or use of property under its custody and control in accordance with KRS Chapter 13A.

(5) Minutes and records of all meetings of the board shall be retained, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at the board's pleasure.

  (a) The executive director shall act under the direction of the board in employing necessary staff to perform its duties and exercise its powers.

  (b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all of the documents, which shall be public records under KRS 61.870 to 61.884.

(8) The corporation shall be a participating agency in the Kentucky Employees Retirement System. Its employees shall be considered state employees for the purpose of participating in the Kentucky Employees Retirement System and shall be entitled to the requirements and benefits provided to other system participants.

(9) All contracts made by or on behalf of the corporation shall be in writing. Personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 6. KRS 154.40-040 is amended to read as follows:

(1) The board may develop articles of incorporation and appropriate documentation to establish its existence as a corporation under KRS 58.180.

(2) A quorum of the board shall consist of four (4) members, with a majority of members present authorized to act upon any matter legally before the corporation.

(3) The board may enact bylaws concerning the election of officers and other administrative procedures it deems necessary.

(4) The board may adopt administrative regulations under KRS Chapter 13A to govern the operation, maintenance, or use of property under its custody and control.

(5) Minutes and records of all meetings of the board shall be kept, and all official actions shall be recorded.

(6) The board may establish an executive committee from among its membership with full authority to act between meetings of the board to the extent delegated by vote of a majority of the members of the board.

(7) The board may employ a full-time executive director who shall hold office at its pleasure.

  (a) The executive director shall act under the direction of the board in employing necessary staff to perform the corporation's duties and exercise its powers.

  (b) The executive director shall keep all minutes, records, and orders of the corporation and shall be responsible for the preservation of all the documents, which shall be public records under KRS 61.870 to 61.884.

(8) All contracts made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 7. KRS 154.85-035 is amended to read as follows:

The corporation shall have all powers and authority necessary to carry out and effectuate the purposes and provisions of KRS 154.85-001 to 154.85-085, including, but not limited to:

(1) Have a common seal which may be altered at will;

(2) Sue and be sued, and complain and defend in its corporate name;

(3) Adopt bylaws and make rules for its business;

(4) Make and enter into all contracts or agreements necessary or incidental to the performance of its duties, and execution of its powers under KRS 154.85-001 to 154.85-085, including, but not limited to, contracting with other agencies for the performance of its functions, and contracting with the Cabinet for Economic Development, or its successor, in the performance of specific state economic development functions and activities***. All contracts and agreements made by or on behalf of the corporation shall be in writing. All personal service contracts and memoranda of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(5) Accept, receive, and administer loans, grants, appropriations, or other funds or gifts from both public and private sources,

including, but not limited to, local governments, the Commonwealth of Kentucky, and federal agencies for the purpose of carrying out the purposes and functions of the corporation, and to make loans and grants as provided in KRS 154.85-050;

(6) Expend funds as may be considered by it to be advisable or necessary in the performance of its duties;

(7) Issue bonds and bond anticipation notes or other obligations payable from the revenues, rentals, and other funds made available to the corporation for the purposes of paying any part of the costs of any project, and to refund any of its bonds;

(8) Create and establish a "debt service reserve" pursuant to proceedings and trust indenture of the corporation;

(9) Acquire, hold as may be necessary and convenient, encumber, or dispose of real and personal property, in the manner and under terms as provided by contract or agreement;

(10) Charge fees, rents, and otherwise charge for services and facilities provided by the corporation, except that the corporation shall not have the power to levy taxes;

(11) Employ consultants, engineers, attorneys, real estate counselors, appraisers, and other persons and employees as may be required in the judgment of the corporation, and to pay and fix their compensation from funds available to the corporation;

(12) Designate official depositories for corporation funds, but any deposit of the corporation in excess of that amount covered by federal deposit insurance shall be secured by sufficient collateral;

(13) Invest any funds held in reserve or in a sinking fund account or any other moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities, but the return on the investments shall not violate any rulings of the United States Internal Revenue Service regarding investments of the proceeds of federally tax-exempt bond issues;

(14) Procure insurance against any loss in connection with its operations in amounts, and from insurers, as deemed necessary and appropriate;

(15) Provide technical, administrative, managerial, and advisory services to any local government, industrial development authority, economic development entity, area development district, and any other economic development or job development entity situated in whole or in part within the region, regarding any economic or job development project, program, or activity; and

(16) Perform any other acts necessary to carry out the corporation's functions and purposes as explicitly stated or implied by KRS 154.85-001 to 154.85-085.

Section 8. KRS 154.47-025 is amended to read as follows:

The board shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board, including, but not limited to, the following:

(1) Developing, in conjunction with other agencies, workforce training plans for the secondary wood products industry as provided for in KRS 154.47-055;

(2) Reviewing and recommending to the Cabinet for Economic Development the approval of proposals to establish business networks for businesses and industries engaged in any value-added processing of raw wood products or the manufacturing of wood products as set forth in KRS 154.47-040, and cooperating with the Cabinet for Economic Development to promote the development of business networks among secondary wood products businesses and industries;

(3) Advising the Natural Resources and Environmental Protection Cabinet and the Labor Cabinet on regulatory matters which impact the economic competitiveness and development of the state's secondary wood products industry;

(4) Advising the Labor Cabinet regarding modifications to the state workers' compensation laws in an effort to make Kentucky's secondary wood products industry more competitive;

(5) Advising the Finance and Administration Cabinet regarding procurement of Kentucky-made secondary wood products by state agencies, including the procurement of these products by the Department of Parks as part of any proposed state parks renovation projects;

(6) Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth of Kentucky, grants or contributions of money, property, labor, or other things of value to be used to carry out the corporation's operations, functions, and responsibilities;

(7) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities***. All contracts and agreements made by or on behalf of the board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(8) Establishing benchmarks for the purpose of evaluating workforce training and technology transfer programs applicable to the secondary wood products industry;

(9) Employing consultants and other persons as may be required in the judgment of the board to be essential to the board's operations, functions, and responsibilities; and

(10) Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its statutory powers, duties, and responsibilities.

Section 9. KRS 154A.060 is amended to read as follows:

(1) The corporation shall conduct and administer lottery games which will result in maximization of revenues to the Commonwealth of Kentucky while at the same time provide entertainment to its citizens. It shall be the duty of the corporation, its employees, and the members of the board to provide for the effective operation of lottery games which insure the integrity of the lottery and maintain the dignity of the Commonwealth and the general welfare of its citizens. The corporation, in pursuit of the attainment of the objectives and the purposes of this chapter, may:

(a) Sue and be sued in its corporate name;

(b) Adopt a corporate seal and a symbol;

(c) Hold copyrights, trademarks, and service marks, and enforce its rights with respect thereto;

(d) Appoint agents upon which process may be served;

(e) Enter into written agreements with one (1) or more other states for the operation, marketing, and promotion of a joint lottery or joint lottery games;

(f) Acquire real property and make improvements thereon. These acquisitions shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with KRS 45.750 to 45.810; and

(g) Make, execute, and effectuate any and all agreements or contracts including:

1. Contracts for the purchase of such goods and services as are necessary for the operation and promotion of the state lottery. Proposed purchases of major items of equipment estimated to cost one hundred thousand dollars ($100,000) or more and proposed purchases of items of equipment where the estimated contract price for all the items of equipment taken together is four hundred thousand dollars ($400,000) or more shall be reported to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with the provisions of KRS 45.750 to 45.810. A contract shall not be artificially divided to cause an estimated contract price to fall below the four hundred thousand dollar ($400,000) threshold. Contracts for personal service ***and memoranda of agreement, as defined in KRS 45A.690,*** shall be reviewed in accordance with KRS 45A.690 to 45A.725.

2. Contracts to incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

All contracts and agreements made by or on behalf of the corporation shall be in writing.

(2) The corporation shall:

(a) Supervise and administer the lottery in accordance with the provisions of this chapter and the administrative regulations adopted by the board;

(b) Submit monthly and annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing financial statements which include but are not limited to disclosure of gross revenues, expenses, and net proceeds for the period;

(c) Adopt by administrative regulation a system of continuous internal audits;

(d) Maintain weekly or more frequent records of lottery transactions, including distribution of tickets to lottery retailers, revenues received, claims for prizes, prizes paid, and all other financial transactions of the corporation;

(e) Adopt by administrative regulation a code of ethics for officers and employees of the corporation to carry out the standards of conduct established by the provisions of this chapter;

(f) Include capital projects, as defined in KRS 45.750(1)(f), which exceed the thresholds set forth in KRS 154A.060(1)(g)1. in the budget unit request submitted by the corporation to the Finance and Administration Cabinet pursuant to KRS 48.050. In the budget unit request submitted by the corporation, a contingency item for acquisition of the on-line central system, all related equipment, and any other equipment owned by vendors of the corporation relating to computer-generated lottery games from the corporation's vendors shall be stated separately from all other equipment. Further, if the identification of specific projects requiring the acquisition of equipment in the nature of computer systems, communications equipment and related peripheral devices, and operating system software cannot be ascertained with absolute certainty at the time the corporation is required to submit its budget unit request, the corporation shall be entitled to submit a general request for the equipment without individually identifying specific projects, together with a maximum amount to be allocated for the equipment, in the budget unit request;

(g) The Kentucky Lottery Corporation and the Cabinet for Families and Children shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the Cabinet for Families and Children on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize; and

(h) The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan and shall transfer the amount to the authority to credit the account of the person in default. Any amount remaining after the deduction of the loan amount shall be paid to the person.

Section 10. KRS 164A.060 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

(1) To make or participate in the making of insured student loans.

(2) To purchase or participate in the purchase of insured student loans, which purchase may be from eligible lenders.

(3) To sell or participate in the sale of insured student loans, which sale may be to eligible lenders or to the student loan marketing association.

(4) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing or causing to be made, purchased, or serviced insured student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.

(5) To procure insurance in respect of all student loans made or purchased by the corporation.

(6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any insured student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.

(7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees, and such other expenses as are necessary or incident to any such borrowing.

(8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.

(9) To make, execute, and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity necessary to accomplish the purposes of this chapter. ***All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.***

(10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(11) To sue and be sued in its own name and to plead and be impleaded.

(12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky Higher Education Assistance Authority and such other regional offices as may be required.

(13) To adopt an official seal and alter the same at pleasure.

(14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.

(15) To employ fiscal consultants, attorneys, counselors, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation.

(16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.

(17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this chapter.

(18) To service and collect educational loans for other lenders, holders, and educational institutions.

Section 11. KRS 175.450 is amended to read as follows:

The authority is hereby authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate, and regulate turnpike projects at such locations within the Commonwealth as may be determined by the authority and the department and provided for in an agreement or agreements;

(2) To acquire sites abutting on any turnpike project, as a part of such project, and to construct or contract for the construction of buildings and appurtenances for service stations, garages, restaurants and other services and to lease the same to parties other than the department for any of such purposes (or, if leases to such parties cannot be made on acceptable terms, to operate or to lease to the department any or all of the same) in such manner and under such terms as may be provided in an agreement;

(3) To issue turnpike revenue bonds of the authority payable solely from the tolls, revenues, rentals and other funds pledged

for their payment, for the purpose of paying all or any part of the cost of any one or more turnpike projects, and to refund any of its bonds;

(4) To fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it, except to the extent that such powers are surrendered to the department pursuant to a lease;

(5) To combine for financing purposes any two (2) or more turnpike projects;

(6) To lease as lessor any turnpike project or projects to the department as lessee, pursuant to the terms and provisions of a lease;

(7) To establish and enforce rules and regulations for the use of any turnpike project, except during any period when such powers are provided to be exercised by the department pursuant to a lease;

(8) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same, with the approval of the department;

(9) To designate the locations and establish, limit and control such points of ingress to and egress from each turnpike project as the authority and the department may determine to be necessary or desirable to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(10) To make and enter into such contracts and agreements with the department and other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter***. All contracts and agreements made by or on behalf of the authority shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(11) To employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) To receive and accept from the Commonwealth, the department, and any federal agency, grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(13) To expend any funds provided under the authority of this chapter in advertising the facilities and services of a turnpike project or projects to the traveling public; and

(14) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter.

Section 12. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan,

mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:

  (a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and

  (b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

Section 13. KRS 224A.070 is amended to read as follows:

The authority may carry out and perform the following essential governmental functions of statewide import and concern:

(1) To promulgate administrative regulations and adopt bylaws for the regulation of its affairs and the conduct of its business, which shall define with specificity conditions precedent under which applications for loans or grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which the authority may act, together with other employees, including for example only, engineers, accountants, and attorneys, necessary and appropriate to enable the authority to fulfill its duties, functions, and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service and sewer service in the state, such tax to be equal to not more than two percent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for loans or grants;

(7) To lease an infrastructure project or make loans or grants to or purchase or refinance obligations of any governmental agency for the purpose of assisting the governmental agency in the construction of an infrastructure project. A lease, loan, or grant shall be in accordance with the terms and conditions of an assistance agreement by and between the authority and the governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, the real property or rights therein, including rights-of-way, easements and licenses, and the personal property reasonably deemed necessary to effectuate the development, implementation, financing, and construction or acquisition of any infrastructure project, and to make the properties available to a governmental agency in connection with an infrastructure project;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of the assistance agreements, and to use and employ the service charges in accordance with the provisions of this chapter, the service charges to constitute authority revenues;

(10) To enter into and enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer infrastructure projects financed by leases, loans or grants which have been undertaken by governmental agencies;

(11) To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this chapter***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(12) To bid at a competitive public sale of obligations of a governmental agency or negotiate the purchase or sale of obligations of a governmental agency, notwithstanding any other law to the contrary;

(13) To borrow money and issue negotiable bonds and notes pursuant to this chapter;

(14) To lend money to governmental agencies or to advance moneys from the infrastructure revolving fund to the federally assisted wastewater revolving fund in order to match federal moneys that may become available;

(15) To contract with the federal government as to any infrastructure project;

(16) To participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction or repair of any infrastructure project; and

(17) To have, possess, and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 14. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, administrative regulations, and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

  (a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and administrative regulations of the corporation;

  (b) The qualifications of the applicant in the areas of experience, training, and financial ability in relation to the project for which assistance is sought and any other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland;

(3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or evidence of indebtedness, hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to fulfill and achieve its authorized public functions or corporate purposes, as set forth in the provisions of KRS 247.940 to 247.978; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that bonds or notes issued by the corporation shall not be subject to the jurisdiction or approval of the Industrial Revenue Bond Oversight Committee or the State Property and Buildings Commission but shall be subject to the review of the Office of Financial Management;

(4) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(5) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(7) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment, and livestock;

(8) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(9) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;

(10) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real and personal property where necessary or appropriate to the purposes of the corporation subject to the rights of holders of the bonds of the corporation, at public or private sale, with or without public bidding;

(11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(12) To procure insurance against any loss in connection with its operations in the amounts and from any insurers, as it may deem necessary or desirable;

(13) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract, or agreement of any kind to which the corporation is a party;

(14) To include in any borrowing those amounts deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory, and legal fees and any other expenses necessary or incident to any borrowing;

(15) To make and publish administrative regulations respecting its lending programs and any other rules and regulations as are necessary to effectuate its corporate purposes;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978***. All agreements made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(18) To sue and be sued in its own name and in the name of any subsidiary corporation or entity which may be created pursuant to subsection (28) of this section;

(19) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents and employees as may be required in

the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or any moneys not required for immediate disbursement by the corporation in:

(a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

(b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

(c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

(d) Any other investment authorized by law for the investment of funds of the Commonwealth;

(22) Subject to the rights of holders of bonds of the corporation, to renegotiate, refinance, or foreclose on any mortgage, security interest, or lien; or commence any action to protect or enforce any right or benefit conferred upon the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and bid for and purchase property at any foreclosure or at any other sale or otherwise acquire or take possession of any property; and in any such event, the corporation may complete, administer, pay the principal of and interest on any obligation incurred in connection with the property, dispose of and otherwise deal with the property in any manner as may be necessary or desirable to protect the interest of the corporation or of holders of its bonds therein;

(23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured, agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay or receive premiums on insurance, coinsurance, or reinsurance, and establish reserves for losses, and participate in the insurance, coinsurance, or reinsurance of agricultural loans, mortgage loans or mortgages, or any other type of loans with the federal or state government or any private insurance company;

(24) To undertake and carry out or authorize the completion of studies and analyses of agricultural conditions and needs within the Commonwealth and needs relating to the promotion of agricultural exports and ways of meeting the needs, and make the studies and analyses available to the public and to the agricultural industry, and to engage in research or disseminate information on agriculture and agricultural exports;

(25) To accept federal, state, or private financial or technical assistance and comply with any conditions for assistance, provided that those conditions are not in conflict with the intent of the provisions of KRS 247.940 to 247.978;

(26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters of credit, and other evidence of indebtedness;

(27) To serve as the beneficiary of any public trust; and

(28) To create such subsidiary corporations or entities as may be necessary to borrow money, insure or reinsure agricultural loans, or issue bonds.

Section 15. KRS 248.480 is amended to read as follows:

(1) As used in this section:

(a) "Settlement trust" means the national tobacco grower settlement trust established between tobacco companies and states with tobacco growers and tobacco quota owners in accordance with the master settlement agreement between certain tobacco companies and states' attorneys general dated November 23, 1998;

(b) "Settlement trust agreement" means the agreement to provide economic assistance from the national tobacco grower settlement trust directly to tobacco growers and tobacco quota holders in the Commonwealth;

(c) "Trustee of the settlement trust" means the entity legally responsible for management of the national tobacco grower settlement trust; and

(d) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation created by this section.

(2) The Kentucky Tobacco Settlement Trust Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions by assisting in the implementation of the national tobacco grower settlement trust agreement. The corporation shall be attached to the Finance and Administration Cabinet for administrative purposes. The corporation shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(3) The corporation shall be directed by a board of directors, which shall include:

(a) The Governor, who shall serve as chair of the corporation;

(b) The Commissioner of Agriculture, who shall serve as vice chair of the corporation;

(c) The Attorney General, who shall serve as secretary of the corporation;

(d) One (1) member of the Senate appointed by the President of the Senate to serve as an ex officio, nonvoting member of the board;

(e) One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives to serve as an ex officio, nonvoting member of the board;

(f) Six (6) citizen members who are tobacco growers or tobacco quota owners appointed by the Governor for a term of four (4) years;

(g) One (1) citizen member with a distinguished record of public service appointed by the Governor for a term of four (4) years; and

(h) Two (2) members appointed by the Governor for a term of four (4) years from a list of six (6) nominees selected and submitted to the Governor by the state's congressional delegation.

(4) Members of the board shall not receive compensation for their services but be reimbursed for necessary travel and lodging expenses incurred in the performance of their duties.

(5) A quorum of the board shall consist of six (6) voting members. A majority of the voting members present may act upon any matter legally before the corporation. The board shall keep minutes and records of all meetings of the corporation and shall record all official actions.

(6) The corporation shall be a body corporate with full corporate powers. The board may develop articles of incorporation and other appropriate documentation to establish the corporation's existence as a corporation authorized by law. The corporation shall not in any form hold, receive, or manage any proceeds from the settlement trust.

(7) The corporation's duties shall include, but not be limited to:

(a) Performing all duties and responsibilities of a state certification body as defined and directed under the terms of the settlement trust agreement;

(b) Preparing and submitting a plan to the trustee of the settlement trust for its approval. The plan shall identify those tobacco growers and tobacco quota owners who are to receive direct payment from the settlement trust and shall determine the respective amount each of the tobacco growers or tobacco quota owners is to receive;

(c) Determining the amount of any administrative expenses to be paid to the corporation under the terms of the settlement trust agreement;

(d) Appointing an officer to conduct executive functions for the corporation. The officer may be a state officer or employee who shall serve as a borrowed servant at no cost to the corporation;

(e) Requesting the trustee of the settlement trust to set aside reserve amounts in anticipation of a decrease in annual payments;

(f) Submitting information required by the trustee of the settlement trust;

(g) Establishing policies and procedures and contracting with other persons or entities if necessary to effectuate its purposes and functions***. All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(h) Discharging additional powers, duties, and functions as necessary or convenient to carry out the purposes of this section; and

(i) Enacting bylaws concerning the conduct of its business and other administrative procedures as it deems necessary.

(8) There shall be no liability on the part of, and no cause of action for damages shall arise against, the corporation or any member, officer, administrator, agent, or employee of the corporation, either as a part of the corporation's operations or as an individual as a result of any act, omission, proceeding, conduct, or decision relating to the official duties, functions, and responsibilities of the corporation.

Section 16. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky Grain Insurance Corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the Commissioner of the Department of Agriculture, who shall serve as president; the Attorney General, who shall serve as secretary; the State Treasurer, who shall serve as treasurer; the State Auditor; two (2) representatives from the Kentucky Feed and Grain Association selected by the Commissioner; two (2) representatives from the Kentucky Farm Bureau Federation selected by the Commissioner; and two (2) representatives from the Kentucky National Farmers Organization selected by the Commissioner. The Commissioner of Agriculture, Attorney General, State Treasurer, and State Auditor may each designate a person to represent him. The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the Commissioner from which the Commissioner shall make his appointments. The appointed members of the board shall serve until June 30, 1992. Thereafter, the appointed members of the board shall serve for a term of four (4) years or until their successor is appointed and qualified. Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

 (a) Perpetual succession by its corporate name as a corporate body;

 (b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

 (c) Adopt and make use of a corporate seal and to alter the same at pleasure;

 (d) Avail itself of the services of the Department of Agriculture, the Attorney General, and the State Auditor when deemed necessary in the execution of the duties of the board;

 (e) Receive funds assessed by the department under KRS 251.640;

 (f) Administer the Kentucky Grain Insurance Fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

 (g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

 (h) Upon the request of the Commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

 (i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

(4) All contracts made by or on behalf of the corporation shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 17. KRS 262.908 is amended to read as follows:

(1) The PACE board shall have the following responsibilities:

 (a) Implementing a Purchase of Agricultural Conservation Easement Program in the Commonwealth as provided by this section, including the development and promulgation of any administrative regulations required;

 (b) Making decisions in connection with each specific easement purchase to be made with Commonwealth funds from the agricultural enhancement fund;

 (c) Evaluating, as necessary, potential sites within the Commonwealth on which agricultural conservation easements or other property interests are to be acquired, applying the criteria set forth in this section and administrative regulations; and

 (d) Employing the staff necessary to implement the provisions of this section.

(2) (a) The PACE board shall establish fair, equitable, objective, nondiscriminatory procedures for determining easement purchase priorities.

 (b) The board shall promulgate administrative regulations establishing policies and procedures for determining easement purchase priorities and for purchasing easements.

 (c) The program criteria shall be designed to ensure that land is selected for easement purchase because it will make a significant contribution to agricultural production.

(3) Any contract made by or on behalf of the PACE board shall be in writing. Any personal service contract or memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725.

Section 18. KRS 342.811 is amended to read as follows:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to KRS Chapter 304, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue;

(2) Hire a manager to administer the authority in accordance with the policies and procedures of the board;

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4) Adopt a corporate seal;

(5) Develop and file with the Legislative Research Commission bylaws for the operation of the authority;

(6) Develop bylaws to establish the contingent liability of the policyholders for assessment purposes required in KRS 342.823;

(7) Examine and adopt an annual operating budget for the authority;

(8) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(9) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a

commercial bank, excluding the authority to issue bonds;

(10) Develop policy for the operation of the authority consistent with its mission and fiduciary responsibility;

(11) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A, including competitive bidding procedures;

(12) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(13) Pursuant to KRS Chapter 304, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(14) Pursuant to KRS 342.823, assess policyholders;

(15) Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;

(16) Approve a personnel policy subject to the provisions of KRS 342.813;

(17) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board***. All contracts made by or on behalf of the board shall be in writing. Any personal service contractor memorandum of agreement, as defined in KRS 45A.690, shall be subject to KRS 45A.690 to 45A.725***;

(18) Conduct annually an independent audit of the financial condition of the authority; and

(19) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of KRS 342.801 to 342.843.

Section 19. (1) The government contract review committee shall notify each entity named in this Act in writing on or before July 1, 2003, of their statutory obligation to adhere to the requirements of KRS 45A.690 to 45A.725.

(2) Each entity named in this Act shall submit information, on or before December 31, 2003, informing the government contract review committee of their compliance with KRS 45A.690 to 45A.725. If any entity created by the General Assembly has filed, prior to the enactment of this legislation, with the government contract review committee, the entity shall continue to ensure compliance with the provisions of KRS 45A.690 to 45A.725.

HB 370, AN ACT relating to state employee health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;

2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the

Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. ***Except as provided in subsection (18) of this section***[~~Furthermore~~], any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the

commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

(16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(17) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

(18) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure as described in this subsection:

(a) The regional rating bid scenario shall not include a request for bid on a statewide option;

(b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;

(c) Carriers shall not be required to bid on every county within a region, but each carrier's bid shall cover at least seventy-five percent (75%) of the state employee population within the region;

(d) If the Personnel Cabinet accepts a carrier's bid, the Cabinet shall award the carrier all of the counties included in its bid within the region; and

(e) A scoring component in the evaluation and scoring process shall be whether a carrier bids on the entire region. A carrier who bids on the entire region shall receive a higher score for that component than a carrier who bids on part of the region.

The Committee Substitute to **HB 370** is as follows:

HB 370, AN ACT relating to state employee health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;

2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. ***Except as provided in subsection (18) of this section***[~~Furthermore~~], any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental

insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in

accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

(16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(17) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

(18) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:

(a) The regional rating bid scenario shall not include a request for bid on a statewide option;

(b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;

(c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include, but not be restricted to, a preferred provider organization (PPO) option;

(d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and

(e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.

Section 2. Whereas regional rating may increase the number of carriers in a county at a time when the number of counties with only one (1) carrier bidding is increasing each contract year, and the Personnel Cabinet is currently in the process of preparing its request for proposals for the 2004 calendar year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 370** is as follows:

HB 370, Amend the title to read as follows: "AN ACT relating to state employee health insurance and declaring an emergency."

HB 392, AN ACT relating to the journals of each house of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 57.310 is amended to read as follows:

(1) Subject to subsections (2) and (3) of this section, the following officers and libraries are entitled free of charge to copies of the journals of each house of the General Assembly, as they are published: each member of the General Assembly, one (1) copy for the session in which he served; the law library of each county, one (1) copy; the Governor and Secretary of State, one (1) copy each; the State Law Library, two (2) copies; the Legislative Research Commission, five (5) copies for the use of the Senate and five (5) copies for the use of the House of Representatives; the law library of the University of Kentucky, the law library of the University of Louisville, the Library of Congress, the Kentucky Historical Society, the Department for Libraries and Archives, and each of the state universities in Kentucky, two (2) copies each.

(2) Prior to printing the journals, the Legislative Research Commission shall inquire of those entitled to a free copy of the journals under subsection (1) of this section:

(a) Whether the officer or library wishes to receive the free copy or copies to which entitled; and

(b) If the officer or library desires to receive a free copy, whether the officer or library prefers to receive it in print or electronic format.

(3) Unless those entitled to a free copy of the journals respond affirmatively to the inquiry required by subsection (2) of this section, they shall not receive a free copy or copies of the journals.

HB 412, AN ACT relating to State Police promotions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.055 is amended to read as follows:

(1) Promotions to sergeant within the department shall be on the following terms and conditions:

(a) The applicant must have served as a commissioned State Police officer for a period of *six (6)*[~~five (5)~~] years to be eligible for promotion to sergeant;

(b) Promotions shall be based on[~~ the highest~~] cumulative *scores*[~~score~~] computed from *twenty*[~~thirty~~] percent *(20%)*[~~(30%)~~] on personnel performance evaluation, *forty*[~~twenty~~] percent *(40%)*[~~(20%)~~] on *job simulation*[~~oral~~] examination, and *forty*[~~fifty~~] percent *(40%)*[~~(50%)~~] on a written examination;

(c) The promotional list shall continue in existence for one (1) year*, shall consist of the numerical scores and rankings of each applicant,* and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

(d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;

(e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);

(f) The *job simulation*[~~oral~~] examination shall be *evaluated*[~~conducted~~] by[~~ interview~~] boards designated by the commissioner consisting of the commissioner or his designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing;

(g) The designated *job simulation examination*[~~oral~~] boards will perform all *evaluations*[~~interviews~~] under guidelines developed and approved by the commissioner; and

(h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.

(2) Promotions from sergeant to lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least *three (3) years*[~~one (1) year~~] of continuous service in grade as sergeant.

(3) Promotions from lieutenant to captain within the department shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least *three (3) years*[~~one (1) year~~] of continuous service in grade as lieutenant.

(4) The department will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

(5) *Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period.*

(6) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

(7)[~~(6)~~] The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.

(8)[~~(7)~~] No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.

(9)[~~(8)~~] There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.

HB 418, AN ACT relating to manufactured home installers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.560 is amended to read as follows:

(1) There is hereby created the Manufactured Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to dealers.

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for Public Health, or their designees, and ***seven (7)***[~~six (6)~~] citizens of the Commonwealth appointed by the Governor, which shall include three (3) manufactured or mobile home dealers, ***one (1) certified manufactured or mobile home installer,*** and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for Public Health shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his ***or her*** successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years. ***In the initial appointment of the certified manufactured or mobile home installer to the board, the Governor shall designate the member to serve for a term expiring September 1, 2004.***

(5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the state fire marshal. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(7) Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.

(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

HB 419, AN ACT relating to detection of deception examiners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 329.030 is amended to read as follows:

(1) No person shall administer a detection of deception examination, as set forth in KRS 329.010, or any imitation thereof, without first securing a trainee's license or an examiner's license. Each application for a trainee's license shall be made to the cabinet within ten (10) days of the commencement of the trainee's internship, and said application shall contain such information as may be reasonably required by the cabinet. Each application for a trainee license or a renewal or extension shall be accompanied by a fee of twenty-five dollars ($25), which is nonrefundable. Each application for an examiner's license shall be made to the cabinet in writing on forms provided by the cabinet and shall contain such information as may be required by the cabinet to determine the eligibility of the applicant. Each application for an examiner's license shall be accompanied by a fee of fifty dollars ($50), which is nonrefundable.

(2) Each applicant for an examiner's license shall submit his fingerprints to the cabinet***. The cabinet may exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of the applicant. Each applicant shall also submit***[~~together with~~] a sworn affidavit that said applicant:

(a) Is a citizen of the United States;

(b) Is at least eighteen (18) years of age;

(c) Has administered detection of deception examinations for a period of at least one (1) year using the instrumentation prescribed in KRS 329.020;

(d) Has completed a course of formal training in detection of deception in an institution accepted by the cabinet;

(e) Has not been convicted of a misdemeanor involving moral turpitude or a felony, or who has not been released or discharged under other than honorable conditions from any of the Armed Services of the United States, or any branch of the state, city or federal government; and

(f) Any other information required by the cabinet to determine the examiner's competency to obtain a license to practice in this state.

(3) Upon receipt of an application for a trainee's license or for an examiner's license, the secretary shall investigate each application, and no license will be issued until said investigation is complete.

(4) The cabinet shall establish such reasonable rules and regulations for the trainee during his internship as may be reasonably necessary for the purpose of insuring that the trainee meets adequate professional standards established by the cabinet.

(5) The cabinet may require applicants for an examiner's license to pass an examination which shall be confined to such knowledge, practical ability and skill as is essential for performing the duties of a detection of deception examiner. The cabinet shall ***promulgate administrative***[~~make rules and~~] regulations for conducting examinations and shall define the standards to be acquired to constitute passing the examination.

(6) The cabinet shall ***promulgate***[~~establish~~] such reasonable ***administrative***[~~rules and~~] regulations for the examiner during his period of licensure as may be reasonably necessary for the purpose of insuring that the examiner maintain adequate professional standards established by the cabinet.

HB 430, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.202 is amended to read as follows:

The secretary is authorized to install and implement by administrative regulation work-related incentive programs for state employees. ***The***[~~Such~~] programs may include, but need not be limited to, an employee suggestion system whereby employees in the classified service may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. ***The***[~~Such~~] programs may provide that when an employee suggestion has been adopted and resulted in a financial savings to the state, the employee who submitted the suggestion may be compensated for his ***or her*** service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars ($2,500).

The Committee Substitute to **HB 430** is as follows:

HB 430, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.702 is amended to read as follows:

(1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System***, except as provided in subsection (8) of this section***. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.

(b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status***, except as provided in subsection (8) of this section***. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

(c)[~~(b)~~]For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he

has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary. The percentage of the monthly contribution paid for the spouse and dependents of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

(8) For employees hired on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred and twenty (120) months of service in the state administered retirement systems. An employee who earns at least one hundred and twenty (120) months of service in the state administered retirement systems, shall be eligible for benefits determined using the formula in subsection (3) of this section for a recipient with one hundred and twenty (120) or more months of service. The benefits of this subsection as provided on July 1, 2003, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

The Committee Amendment No. 1 Title to **HB 430** is as follows:

HB 430, Amend the title to read "AN ACT relating to retirement.".

HB 431, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.227 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) *"Cabinet" shall mean the Personnel Cabinet;*"

(b) Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the Federal Internal Revenue Code;

(c)[~~(b)~~]*"Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder;*

(d) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state; ***and***

[~~(c) "Cabinet" shall mean the Personnel Cabinet;~~

~~(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and~~]

(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.

(2) As part of the employee benefits provided to state employees under this chapter, the cabinet may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.

(3) Options available under the plan may include, but are not limited to:

(a) Health insurance coverage;
(b) Managed health care coverage;
(c) Catastrophic illness coverage;
(d) Dental insurance;
(e) Term life insurance-accidental, death, or dismemberment;
(f) Vision insurance;
(g) Long term disability insurance;
(h) Long term medical care; and
(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the cabinet determines to be in the best interests of state employees.

(4) Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction. Once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status, other change of status, or special enrollment rights under the Federal Health Insurance Portability and Accountability Act of 1996 which necessitates a revision of his ***or her*** benefit election.

(5) Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent the benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.

The Committee Substitute to **HB 431** is as follows:

HB 431, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.226 is amended to read as follows:

(1) To provide quality, affordable health insurance coverage so that the Commonwealth can attract and retain able and dedicated public employees, and to facilitate the need for comprehensive and efficient planning, implementation, and administration of a state employee health insurance program in order to meet this goal, the Kentucky Group Health Insurance Board is created. The board shall be attached to the Personnel Cabinet for administrative purposes only. The board shall consist of thirteen (13) members as follows:

(a) The secretary of the Finance and Administration Cabinet*, or a designee*;
(b) The secretary of the Personnel Cabinet*, or a designee*;

(c) The state budget director***, or a designee***;

(d) The commissioner of education***, or a designee***;

(e) The chair of the Advisory Committee of State Health Insurance Subscribers***, or a designee***;

(f) The commissioner of insurance, ex officio***, or a designee***;

(g) The Auditor of Public Accounts, ex officio***, or a designee***;

(h) The Director of the Administrative Office of the Courts, or his designee;

(i) One (1) retired state employee appointed by the Kentucky Retirement Systems, who shall serve an initial term of one (1) year;

(j) One (1) retired teacher appointed by the Teachers' Retirement System, who shall serve an initial term of two (2) years;

(k) One (1) active teacher appointed by the organization with the largest number of teacher members on payroll deduction, who shall serve an initial term of one (1) year;

(l) One (1) active state employee appointed by the organization with the largest number of state employee members on payroll deduction, who shall serve an initial term of two (2) years; and

(m) One (1) active classified education support employee appointed by the organization with the largest number of classified education support employee members on payroll deduction, who shall serve an initial term of one (1) year.

As each appointed member's term expires, the vacancy created shall be filled by the appointing authority for that position for a term of two (2) years. An appointment to fill an unexpired term of an appointed member shall be made by the designated appointing authority for the remainder of the term. Appointed terms shall begin effective October 1.

(2) The members of the board shall elect from among its members a chair and a vice chair.

(3) Regular meetings of the board shall be held at least once every month at a place, day, and time determined by the board. Special meetings of the board shall be held when needed as determined by the chair. If seven (7) or more members of the board request in writing that the chair call a special meeting, the chair shall call a special meeting. The meetings shall operate in accordance with the provisions of the Open Meetings Law under KRS 61.805 to 61.850.

(4) Members of the board shall receive reimbursement for necessary expenses for attendance at official board meetings or public hearings.

(5) ***The chair shall be notified in November of each year, of the name and title of the designee who may be representing that board member for the subsequent twelve (12) months.***

(6) The Kentucky Group Health Insurance Board shall:

(a) Engage in analyses and research to identify the factors and parameters that affect the state group health insurance program;

(b) Develop and transmit, by October 1 of each year beginning October 1, 2001, to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, policy recommendations regarding benefit options and management of the state group health insurance program; and

(c) Provide in the first report, due by October 1, 2001, the following:

1. Analysis and discussion of methods used by all other states to provide health insurance benefits to their state group; and
2. Analysis and discussion of the cost, enrollment, claims, and utilization data for calendar year 2000 on the Kentucky state group; and
3. Recommendations including but not limited to appropriate structures for the state contribution rate which shall include recommendations on increasing the state contribution to provide support for dependent coverage, possible methods to mitigate adverse selection, competitive plan designs by type and benefit options, the feasibility of a state self-insurance plan, and strategies for evaluating third-party administrators and vendors.

The Committee Amendment No. 1 Title to **HB 431** is as follows:

HB 431, Amend title to read as follows: "AN ACT relating to the Kentucky Group Health Insurance Board."

HB 442, AN ACT relating to the collection of debts by the Revenue Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Revenue Cabinet:

(1) The cabinet may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

(3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Revenue Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the Revenue Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.

(8) The cabinet may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the secretary may deem wise.

(9) The cabinet may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The cabinet may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The cabinet may enter into annual memoranda of agreement with ***any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization***~~[the Cabinet for Families and Children]~~ to assume the collection duties for ***any liquidated debts due the state entity***~~[support obligations]~~ and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of ***those liquidated debts***~~[support obligations]~~ as provided under:

  (a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

  (b) ***Any applicable statutory provisions governing the state agency, officer, board, combustion, corporation, institution, cabinet, department, or other state organization***~~[KRS Chapters 205 and 405]~~ for the collection, refund, and administration of ***any liquidated debts due the state entity***~~[support obligations by the Cabinet for Families and Children]~~.

The Committee Substitute to **HB 442** is as follows:

HB 442, AN ACT relating to the collection of debts by the Revenue Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Revenue Cabinet:

(1) The cabinet may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

(3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Revenue Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the Revenue Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.

(8) The cabinet may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the secretary may deem wise.

(9) The cabinet may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The cabinet may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The cabinet may enter into annual memoranda of agreement with ***any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization***[~~the Cabinet for Families and Children~~] to assume the collection duties for ***any liquidated debts due the state entity***[~~support obligations~~] and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of ***those liquidated debts***[~~support obligations~~] as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) ***Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization***[~~KRS Chapters 205 and 405~~] for the collection, refund, and administration of ***any liquidated debts due the state entity***[~~support obligations by the Cabinet for Families and Children~~].

HB 470, AN ACT relating to the Kentucky Asset/Liability Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.8605 is amended to read as follows:

As used in KRS 56.860 to 56.869:

(1) "Authorized project" means:

(a) Any project approved by the General Assembly and included in an enacted budget; or

(b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues ***or will be payable from receipts of federal transportation funds that are projected by the commission to be*** sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;

(2) "Cabinet" means the Finance and Administration Cabinet;

(3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;

(4) "Commission" means the Kentucky Asset/Liability Commission;

(5) "Estimated revenues" means the detailed revenue estimate or revised revenue estimate as certified by the secretary of the Finance and Administration Cabinet pursuant to KRS 48.115 and 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;

(6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;

(7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a state agency, relating to the funding of projects or items associated with projects as described in KRS 56.867(3), or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;

(8) "Fixed-rate obligations" means obligations on which the interest rate remains constant to maturity;

(9) "Funding notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;

(10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;

(11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;

(12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;

(13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(14) "Project notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ***twenty (20)***[~~ten (10)~~] years for the purpose of funding authorized projects, which may include bond anticipation notes;

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;

(16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and

(17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

Section 2. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;

(2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging ***its current or projected***[~~a portfolio of~~] interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements[~~ relating to funding notes, project notes, and tax and revenue anticipation notes~~] into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to tax and revenue anticipation notes, project notes, and funding notes; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

  (a) A description of the Commonwealth's investment and debt structure;

  (b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

  (c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and

  (d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

HCR 46, A CONCURRENT RESOLUTION consenting to the reappointment of William R. Whitledge as a member of the Mine Safety Review Commission.

WHEREAS, KRS 351.1041 requires the Governor to appoint the three members of the Mine Safety Review Commission, subject to the consent of the Senate and House of Representatives in accordance with KRS 11.160; and

WHEREAS, on May 10, 2002, the Governor reappointed William R. Whitledge as a member of the Mine Safety Review Commission by Executive Order 2002-523, to serve a term expiring on May 23, 2006; and

WHEREAS, the House of Representatives and the Senate find that William R. Whitledge meets the requirements of KRS 351.1041, having the qualifications of a Judge of the Court of Appeals, except for residence in a district;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate consent to the reappointment of William R. Whitledge as a member of the Mine Safety Review Commission, for a term expiring on May 23, 2006.

Section 2. The Clerk of the House of Representatives shall notify the Governor and the appointee of the General Assembly's action, by forwarding a copy of this Resolution and written notification of its adoption to Mr. William R. Whitledge, 141 Yorkwood Place, Madisonville, Kentucky 42431 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 89, A CONCURRENT RESOLUTION confirming the reappointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 2003-77, dated January 27, 2003, the Governor reappointed Ronald J. Carson of Frankfort and submitted his appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Ronald J. Carson meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate do confirm the appointment of Ronald J. Carson to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2006.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Ronald J. Carson, 215 Evergreen Road, Frankfort, Kentucky 40601 and to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 138, A CONCURRENT RESOLUTION encouraging state government agencies to more widely deploy electronic government services to benefit citizens and businesses of Kentucky.

WHEREAS, the use of computers and the Internet is rapidly transforming interactions and the relationships among citizens, private businesses, and state government; and

WHEREAS, the majority of Kentuckians now have access to the Internet at home, work or school; and

WHEREAS, the electronic delivery of state government services is a cost-effective channel for citizens and businesses to interact with state government; and

WHEREAS, using Internet-based information technology enhances citizen access to state government information and services; and

WHEREAS, equal and ready access to government information, regardless of format, is essential for a democratic society; and

WHEREAS, creating a technology friendly business environment will assist in promoting Kentucky to prospective businesses;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. State agencies are hereby encouraged to offer their services via the Internet and the Kentucky.gov portal to businesses and citizens to provide Kentuckians the convenience and cost effectiveness of electronically delivered services and information.

Introduction of Bills and Resolutions (Continued)

HB 560, by Representative Stumbo: AN ACT relating to state government procedures, and declaring an emergency.

HR 152, by Representatives T. Thompson, Stumbo, Palumbo, and Crall: A RESOLUTION adjourning the House of Representatives in loving memory and honor of J. R. Miller.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved to waive the posting requirement on **HB 465, 417, 498, 400, 443, 454, 479, 451, 409, 494, 503, HCR 141, SB 17, HB 496,** and **HB 108**. Agreed.

Representative Comer moved the adoption of the following **HR 123**:

HR 123, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Finis Durrett.

With deepest respect and admiration, we pay homage and tribute to Finis Durrett, and we pause in silent reverence for his soul.

WHEREAS, Finis Durrett was born on March 2, 1919, a native of Green County, Kentucky, and he traversed these earthly bounds on January 21, 2003; and

WHEREAS, Finis Durrett was the loving son of the late James Durrett and Mary Alice Akin Durrett, and he also was preceded in death by seven brothers and sisters, Ora, Ores, Hamilton, C. D., Woodrow, Mary Liza and Earl Durrett; he was the devoted husband of the late Hazel Wallace Durrett; he was the loving father of a son and daughter-in-law, Finis Wayne and Frances Durrett of Greensburg; and he was the proud grandfather of two grandchildren, Barry Wayne Durrett and his wife Stephanie of Louisville, and Stephen Todd Durrett and his wife Angie of Greensburg, two step-grandchildren, Darlene Henderson and her husband Jack of Texas and Lana Bush and her husband Danny of Greensburg, and two great-grandchildren and six step-great-grandchildren; and he also leaves behind a loving brother, Alfonso Durrett of Hodgenville, and a longtime friend and assistant, Beverly Ingram of Greensburg; and

WHEREAS, Finis Durrett was an esteemed member of the Green County community, where he was a member of Summersville Baptist Church; he was an outstanding citizen and a very successful businessman and was founder and owner of Durrett Realty; he was a former owner of burley tobacco warehouses in Greensburg and Horse Cave; he had been involved in various other businesses, and he also owned several thousand acres of land in Green and Hart counties; and

WHEREAS, Finis Durrett was a public servant, serving two terms as Green County Judge, and being the last Democrat to serve consecutive terms in the judge-executive's office; and when this honorable body reflects upon the memory of Finis Durrett, we remember him not only for his many accomplishments and the friendships he made and sustained through the years, but also his compassion for and understanding of the common man, which he demonstrated daily throughout his life; and

WHEREAS, the passing of Finis Durrett has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Finis Durrett, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Finis Durrett.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Finis Wayne Durrett, P. O. Box 362, Greensburg, Kentucky 42743.

There being no objection, HR **123** was adopted.

Representative Ford moved the adoption of the following **Legislative Citation No. 34**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Donald Wayne Rowe and joins with Representative Danny Ford in expressing deepest sympathy to the Rowe Family and all who mourn the passing of this distinguished and highly-regarded gentleman. The son of the late Robert and Winnie Price Rowe, he was preceded in death by siblings, Arthur, James, Floyd, Elsie and Lorene. He is survived by his cherished wife, Sue Moore Rowe; beloved sons, Greg and Kevin; siblings, Stewart, Lewis, Leon and Shirley; grandchild, Kayla; and, a host of other family members, friends and loved ones. This esteemed citizen, a former barber, employee of Parker Seal and Rockcastle County Magistrate for the Second District; current employee of the IGA grocery store in Berea; and, a member of the Maretburg Baptist Church, is remembered on this day for the many and generous contributions he made to his family, his community, and to this fine Commonwealth. Donald Wayne Rowe will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this eighteenth day of February, in the year two thousand and three.

Legislative Citation No. 34 was adopted without objection.

Representative Adkins moved the adoption of the following **HR 146**:

HR 146, A RESOLUTION adjourning the House of Representatives in loving memory and honor of A. H. "Hardy" Jones.

With deepest respect and admiration, we pay homage and tribute to A. H. "Hardy" Jones, and we pause in silent reverence for his soul.

WHEREAS, Hardy Jones was born on August 2, 1923, a native of Morgan County, Kentucky, and longtime resident of Rowan County, Kentucky, and he traversed these earthly bounds on February 1, 2003; and

WHEREAS, Hardy Jones was the loving son of the late Walter D. "Doc" and Frances Elizabeth Prater Jones, and he was also preceded in death by a brother, Walton Jones, and a sister and brother-in-law, Leatrice and Cecil Jackson; he was the devoted husband of Margaret Pelfrey Jones; he was the adored father of a son, Walter Douglas Jones and his wife Jackie; a daughter, Patricia Lynn Derrickson and her husband Dr. Ralph Derrickson, all of Morehead; and he was the proud grandfather of four grandchildren, Justin Vince Derrickson and his wife Leslie, Brian Scott Derrickson, and Casey Alan Derrickson, all of Morehead, and Amy Leigh Jones of Bowling Green; he was the loving uncle of three nephews, Gary Lee Jackson of Ada, Ohio, Andrew Walton Jones of Paintsville, and Cecil Lynn Jackson of Columbus, Ohio, and a loving niece, Earlene Gayle Reed of Caney; and he also leaves behind two loving sisters, Mrs. Wanda Reed and her husband Earl of Caney, and Mrs. Berneaze Wallace and her husband Harold of Lexington; and

WHEREAS, Hardy Jones was an esteemed member of the Rowan County community where he was a devout member of the Baptist Church for over 52 years; he was a successful businessman and was retired from the Tennessee Gas Transmission Company after 35 years of service, and he assisted his son and wife in the family business, "DJ's" Clothier for Men, for over 18 years; and

WHEREAS, Hardy Jones was an active and involved citizen and a highly respected member of his community where he was a member of the Rowan County Water District as a consultant and assisting engineer; he was a member of The Citizens Bank Board of Directors and the Rowan County Public Library Board; he served two terms on the Rowan County Board of Education; he served on the board of the Grayson Rural Electric Cooperative Association for 24 years, also serving as its vice president; he was a member of the ASCS, the Rowan County Long Range Planning and Ethics Committee, and he was the East Kentucky Statewide Representative to the Kentucky Rural Electrification Corporation in Louisville; he was a member of the Farm Services Administration, and he was a 25-year member of the Rowan County Water Board where he served as secretary to the board; he was a loyal Republican and a member of the Greenville Masonic Lodge and El Hasa Temple; and

WHEREAS, the passing of Hardy Jones has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of bereavement upon the passing of A. H. "Hardy" Jones, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of A. H. "Hardy" Jones.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Senator Walter Blevins for presentation to the family of A. H. "Hardy" Jones.

There being no objection, HR **146** was adopted.

Representative Cherry moved to withdraw Floor Amendment No. 1 to **HB 115**.

Representative Comer moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Comer moved that he be recorded as voting "yea" on **HB 233**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Walton moved that he be recorded as voting "nay" on **HB 107**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HJR 83**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "nay" on **HB 107**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 139**. Agreed.

Representative Callahan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HJR 82**. Agreed.

Representative Cherry moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Cherry moved that he be recorded as voting "yea" on **HB 24** and **83** (vote recorded prior to bill being reported out of committee, bill never placed before the house for passage). Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "yea" on **HB 4, 28, 267,** and **317**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 28, 317, 4,** and **267**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 294, 24, 295, 6, 233, HJR 82, 64, 55, 25,** and **3**. Agreed.

Floor Amendments

Floor Amendment No. 10 to the Committee Substitute No. 2 to **HB 269**, by Representative Pullin:

HB 269, General Administration
Finance
Part I
On page 40, line 2, delete "19,211,100" and insert "22,711,100";
On page 40, line 4, delete "20,636,100" and insert "24,136,100";
On page 47, line 20, delete "82,600,400" and insert "79,100,400";
On page 47, line 23, delete "83,230,300" and insert "79,730,300";
On page 48, line 5, delete "46,354,800" and insert "42,854,800";
and adjust subtotals and totals accordingly.

Floor Amendment No. 11 to the Committee Substitute No. 2 to **HB 269**, by Representative Pullin:

HB 269, Support Education Excellence in Kentucky (SEEK) Program
Part IX
On page 221, after line 9, by inserting the following:
" Local boards of eduation shall provide a cost-of-living adjustment for all classified employees in fiscal year 2003-2004."

Floor Amendment No. 2 to the Committee Substitute to **HB 355**, by Representative Vincent:

HB 355, On page 1, after the enacting clause, by deleting all text in its entirety, and inserting in lieu thereof:

"Section 1. KRS 199.462 is amended to read as follows:

(1) ***Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption***[~~Before any applicant to provide foster care home services to a minor may be approved~~], the Cabinet for Families and Children shall***:***

(a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of State Police and the Federal Bureau of Investigation; or

(b) Request from the Justice Cabinet records of all conviction information for the applicant ***and any of the applicant's adult household members***. The Justice Cabinet shall furnish the information to the Cabinet for Families and Children and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

(3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Families and Children may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.

(4) The Cabinet for Families and Children shall promulgate an administrative regulation to implement this section.".

Floor Amendment No. 1 to **HB 379**, by Representative Richards:

HB 379, On page 1, line 14, after "*any*" by inserting "*medical malpractice insurance*".

Floor Amendment No. 1 to **HB 25**, by Representative Gooch:

HB 25, On page 4, after line 10, by adding:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

A member of the Kentucky General Assembly who holds a license from a licensing authority under the Kentucky Revised Statutes which requires each licensee to complete continuing education courses shall have each credit hour of ethics provided to members of the General Assembly under this chapter approved for credit by the licensing authority if the licensing authority's continuing education requirement mandates a minimum number of ethics credits. The licensing authority shall approve General Assembly ethics credit hours up to but not exceeding the minimum credit hours of ethics required by the licensing authority for the licensing authority's continuing education period.".

Floor Amendment No. 2 Title to **HB 25**, by Representative Gooch:

HB 25, Amend the title to read as follows: "AN ACT relating to continuing education."

Floor Amendment No. 5 to **HB 251**, by Representative Feeley:

HB 251, On page 6, after line 6, by inserting:

"*(5) The settlement agent shall send to the owner within one (1) week after the closing proof of payment of any liens identified at the closing to be paid. Proof of payment shall consist of a copy of a trust account check and a mailing or transmittal receipt or an acknowledgment of payment by the lienholder.*"; and

On page 19, after line 11, by adding:

"SECTION 26. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

Any person or firm employed to do title work on real estate either for the owner or for the lender shall prepare a follow-up title report within thirty (30) days after the closing and shall notify both the buyer and the lender if any title defects are not resolved."; and

On page 19, by deleting line 12 in its entirety and inserting in lieu thereof:

"Section 27. Sections 16 to 25 of this Act take effect on July 15, 2003.".

Floor Amendment No. 2 to the Committee Substitute to **HB 115**, by Representative Cherry:

HB 115, On page 4, after line 24, insert the following:

"*(9) Nothing in Sections 1 to 14 of this Act shall prohibit a factory-authorized representative from the installation or maintenance of a major medical equipment device provided the installation begins at the load side of the equipment disconnect and is confined to the equipment only.*".

Floor Amendment No. 7 to the Committee Substitute to **HB 242**, by Representative Damron:

HB 242, On page 12, line 5, by deleting "*Nothing*" and by inserting in lieu thereof "*While the Cabinet for Families and Children shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing*".

Floor Amendment No. 6 to **HB 251**, by Representative Draud:

HB 251, On page 12, line 11, by deleting "*(26)*" and inserting in lieu thereof "*(24)*"; and

On page 12, by deleting lines 17 to 26 in their entirety; and

On page 12, line 27, by deleting "*(5)*" and inserting "*(3)*" in lieu thereof; and

On page 13, line 12 by deleting "*(6)*" and inserting "*(4)*" in lieu thereof; and

On page 14, line 6, by deleting "*(26)*" and inserting in lieu thereof "*(24)*"; and

On page 14, line 7 by deleting "*(7)*" and inserting "*(5)*" in lieu thereof; and

On page 14, line 18 by deleting "*(8)*" and inserting "*(6)*" in lieu thereof; and

On page 14, line 22 by deleting "*(9)*" and inserting "*(7)*" in lieu thereof; and

On page 14, by deleting line 27 in its entirety; and

On page 15, by deleting line 1 in its entirety; and

On page 15, by deleting lines 8 to 27 in their entirety and inserting in lieu thereof:

"*(2) An agent of a title insurer shall be licensed as an agent with a title line of authority in accordance with the provisions of Subtitle 9 of this chapter regulating all aspects of agent licenses.*

(3) Subsection (2) of this section includes the requirement that the agent shall satisfactorily complete the continuing education requirements in accordance with KRS 304.9-295.

(4) An agent of a title insurer shall be appointed by the title insurer in accordance with the provisions of Subtitle 9 of this chapter regulating all aspects of agent appointments."; and

On page 16, by deleting lines 1 to 13 in their entirety; and

On page 16, line 18, by deleting "*(26)*" and inserting in lieu thereof "*(24)*"; and

On page 18, lines 5, 12, 16, 20, and 21, by deleting "*(26)*" and inserting in lieu thereof "*(24)*"; and

On page 18, line 11, by deleting "*, including continuing education requirements in Subtitle 9 of this chapter,*"; and

On page 18, by deleting lines 17 to 27 in their entirety; and

On page 19, by deleting lines 1 to 8 in their entirety;

On page 19, line 9, by deleting "25" and inserting in lieu thereof "24"; and

On page 19, line 11, by deleting "*26*" and inserting in lieu thereof "*24*"; and

On page 19, after line 11, by inserting:

"Section 25. KRS 304.9-030 is amended to read as follows:

(1) Unless denied a license according to KRS 304.9-440, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license.

(2) An insurance agent may receive qualification for a license in one (1) or more of the following applicable lines of authority:

(a) Life -- insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) Health -- insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(c) Property -- insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) Casualty -- insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(e) Variable life and variable annuity products -- insurance coverage provided under variable life insurance contracts and variable annuities;

(f) Limited line insurance as identified in KRS 304.9-230;

(g) Personal lines -- property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; [~~and~~]

(h) *Title -- title insurance as defined in KRS 304.5-090; and*

(i) Any other line of insurance authorized by Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.

Section 26. KRS 304.9-105 is amended to read as follows:

An individual applying for an agent license shall make application to the commissioner on the uniform individual application or other application prescribed by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the applicant:

(1) Is at least eighteen (18) years of age;

(2) Has fulfilled the residence requirements as set forth in KRS 304.9-120 or is a nonresident who is not eligible to be issued a license in accordance with KRS 304.9-140;

(3) Has not committed any act that is a ground for denial, suspension, or revocation set forth in KRS 304.9-440;

(4) Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;

(5) Is competent to exercise the license and has:

(a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;

(b) Except for limited lines licenses, completed a forty (40) hour prelicensing classroom course of study for the lines of authority for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section;

(c) Except for limited line licenses, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied; and

(d) Paid the fees set forth in KRS 304.4-010; and

(6) Is financially responsible to exercise the license and has:

(a) 1. Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than twenty thousand dollars ($20,000) and one hundred thousand dollars ($100,000) in the aggregate for all occurrences within one (1) year, and that the policy shall not be terminated unless at least thirty (30) days' prior written notice will have been given to the commissioner; or

2. Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write business in this Commonwealth, in the sum of twenty thousand dollars ($20,000), which shall be subject to lawful levy of execution by any party to whom the licensee has been found to be legally liable as the result of erroneous acts or failure to act in his or her capacity as an agent; or

3. Filed with the commissioner on his or her behalf, by an authorized insurer or group of affiliated insurers for which he or she is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent on behalf of the insurer or group of affiliated insurers in the sum of twenty thousand dollars ($20,000) for any single occurrence and that the agreement shall not be terminated until the license is surrendered to the commissioner or at least thirty (30) days' prior written notice will have been given to the commissioner, whichever shall first occur; and

(b) ***1. Filed with the commissioner the certificate of the insurer authorized to write legal liability insurance in this state that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his or her capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in a sum of not less than two hundred fifty thousand dollars ($250,000) per claim; and***

2. Filed with the commissioner a blanket fidelity bond or employee dishonesty insurance policy issued by an authorized insurer and covering persons employed by the agent and providing a minimum of fifty thousand dollars ($50,000) in coverage. When the agent has no employees except the owner, partners, shareholders, or members, the settlement agent may apply to the appropriate licensing authority for a waiver of this fidelity bond or employee dishonesty insurance requirement.

3. Paragraph (b) of this subsection shall apply only to agents holding a title line of authority, and agents holding a title line of authority only shall not be required to comply with the requirements of paragraph (a) of this subsection.

(c) Agreed with the commissioner that if at any time notice is given to the commissioner that any policy ***or bond*** filed in accordance with paragraph (a)1. ***or paragraph (b)*** of this subsection, or agreement filed in accordance with paragraph (a)3. of this subsection, is to be terminated and has not been replaced by another policy***, bond,*** or agreement within the time established by regulations of the commissioner, or if any deposit in accordance with paragraph (a)2. ***or (b)2.*** of this subsection be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by regulations of the commissioner, any and all licenses held by the licensee are revoked and shall be promptly surrendered to the commissioner without demand. The commissioner may require additional information or submissions from applicants and may obtain any documents or information reasonably necessary to verify the information contained in an application."; and

On page 19, line 12, by deleting the line in its entirety and inserting in lieu thereof:

"Section 27. Sections 16 to 26 of this Act shall take effect on January 1, 2004.".

Floor Amendment No. 8 to the Committee Substitute to **HB 242**, by Representative Nunn:

HB 242, On page 17, line 3, after "***in***" by inserting "***or receiving services from***"; and

On page 17, line 4, after "***facility***" by inserting "***or licensed home health agency***"; and

On page 17, line 8, after "***in***" by inserting "***or while receiving services from***"; and

On page 18, line 2, after the period, by inserting "***In cases where an employee works for a health facility as defined under KRS 216B.015(12), the responsible licensing agency for the health facility shall take such action as required by law.***"; and

On page 18, between lines 5 and 6, by inserting the following:

"***(11) Upon notification that local law enforcement, the Kentucky State Police, Cabinet for Families and Children, or the Office of Inspector General, Cabinet for Health Services has substantiated that abuse, neglect, or exploitation of a resident occurred in or while receiving services from a facility as defined in KRS 216B.015(12), the Cabinet for Health Services shall place appropriate information pertaining to nurse aides or home health aides on the Nurse Aide Abuse Registry established under KRS 216.936.***".

Floor Amendment No. 1 to **HJR 7**, by Representative Barrows:

HJR 7, On page 2, after the last WHEREAS clause and before the words NOW, THEREFORE insert:

"WHEREAS, John Conlee is a native and favorite son of Woodford County; and

WHEREAS, John Conlee is a talented musician who has achieved stardom in the world of country music with many hits including "Rose Colored Glasses";"; and

On page 2, after line 8, insert the following new sections:

"Section 4. The Transportation Cabinet shall name United States Route 60 in Woodford County from the eastern limits of the City of Versailles to the western city limits at the intersection of United States Route 60 and United States Route 62 the "John Conlee Highway".

Section 5. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on United States Route 60 in Woodford County at the eastern limits of the City of Versailles and the western city limits at the intersection of United States Route 60 and United States Route 62 that read "John Conlee Highway".".

Floor Amendment No. 2 Title to **HJR 7**, by Representative Barrows:

HJR 7, On page 1, amend the title to read as follows: "A JOINT RESOLUTION naming various highways."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 8, Representative Feeley

HB 28, Representative Kerr

HB 67, Representative Sims

HB 205, Representative Callahan

HB 207, Representative Sims

HB 289, Representative Kerr

HB 452, Representatives J. Adams, Bratcher, and Montell

HB 493, Representatives Bruce, S. Lee, and Mobley

HB 522, Representatives Burch, De. Butler, L. Clark, Gray, Horlander, Jenkins, Marzian, Meeks, Miller, Riner, and Stumbo

HB 536, Representative De. Butler

HB 537, Representative De. Butler

HB 538, Representative Graham

HJR 3, Representative Adkins

HJR 78, Representative Nelson

HJR 116, Representative Bratcher

The following members filed requests to have their names withdrawn as co-sponsors of a Bill:

HB 463, Representatives Baugh and Rand

Announcements

The following meetings were announced:

Local Government Committee: Upon adjournment, Room 149

Health and Welfare Committee: Canceled

Appropriations and Revenue Committee: Upon adjournment

Tourism Development and Energy Committee: Wednesday, February 19, 2003, 8:45 a.m.

Education Committee: Wednesday, February 19, 2003, 8:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Wednesday, February 19, 2003.

The motion that the House adjourn until 2 p.m., Wednesday, February 19, 2003, was adopted by voice vote.

WEDNESDAY, FEBRUARY 19, 2003

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Belcher and Haydon.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of Tuesday, February 18, 2003, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 541**

Appropriations and Revenue: **HB 1, 2, 515, 518, 523, 528, 537**

Banking and Insurance: **HB 526**

Economic Development: **HB 545**

Education: **HB 527, 550**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 538, 559**

Health and Welfare: **HB 521, 529, 530, 535**

Judiciary: **HB 525, 539, 540, 546, 553, 556, 558**

Labor and Industry: **HB 516, 519, 522**

Licensing and Occupations: **HB 517, 531, 532, 536**

Local Government: **HB 514, 533, 542, 548, 554, 557**

Natural Resources and Environment: **HB 534, 552, 555**

Seniors, Military Affairs, and Public Safety: **HB 549**

State Government: **HB 520, 524, 544, 547, 560, HJR 150, HCR 151**

Transportation: **HB 543, 551, HJR 144**

House Floor: **HR 145, 147, 148, 149, 152**

Report of Committees

The Committee on Local Government reported **HB 162, HB 249,** with Committee Substitute attached thereto, **HB 377, HB 403, HB 408,** with Committee Amendment attached thereto, **HB 427,** with Committee Substitute attached thereto, **HB 463,** with Committee Amendment attached thereto, **HB 468, HB 473, HB 496, HCR 21,** and **HCR 122,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 162, AN ACT relating to fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.090 is amended to read as follows:

(1) Sheriffs may charge and collect the following fees from the Commonwealth and any of its agencies, including the

Department of State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of State Police makes a request that the sheriff perform any of the following:

(a)	Executing and returning process	$20.00;
(b)	Serving an order of court and return	3.00;
(c)	Summoning or subpoenaing each witness, fee to be paid by requester to sheriff before service	10.00;
(d)	Summoning an appraiser or reviewer	2.00;
(e)	Attending a surveyor, when ordered by a court, per deputy or sheriff assigned	20.00;
(f)	Taking any bond that he is authorized or required to take in any action	5.00;
(g)	Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six percent (6%) on the first three hundred dollars ($300) and three percent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case;	
(h)	Taking a recognizance of a witness	3.00;
(i)	Levying an attachment	5.00;
(j)	When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court;	
(k)	Summoning a garnishee	3.00;
(l)	Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted	8.00;
(m)	Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	***30.00***[~~10.00~~];
(n)	Serving an order or process of revivor	3.00;
(o)	Executing a writ of possession against each tenant or defendant	7.00;
(p)	Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission;	
(q)	Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	8.00;
(r)	Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;	
(s)	Levying for a fee-bill	3.00;
(t)	Serving a notice	2.00;
(u)	Serving summons, warrants or process of arrest in cases of children born out of wedlock	6.00;
(v)	Serving a civil summons in a nonsupport case	10.00;
(w)	Serving each order appointing surveyors of roads, to be paid out of the county levy	5.00;
(x)	Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	5.00;
(y)	Like services in cases of private passways to be paid by the applicant	5.00;
(z)	Executing each writ of habeas corpus, to be paid by the petitioner	3.00;
(aa)	All services under a writ issued under	

KRS 381.460 to 381.570 .... 10.00; and

(bb) For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

(2) Sheriffs may charge and collect a fee of twenty dollars ($20) from any person not requesting the service of the sheriff on behalf of the Commonwealth, any of its agencies, or the Department of State Police for the services provided in subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.

HB 249, AN ACT relating to insurance premium surcharges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) *(a)* Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government.

(b) Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(c) A willful violation of any provision of this section shall result in the responsible insurance company being assessed a penalty equal to ten percent (10%) of the license fee or tax owed to the city, county, or urban-county government.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) (a) Annually, by March 31, each insurer shall furnish the Department of Insurance with a report identifying all policies issued by the insurer and the premium charged therefor. The report shall also provide a breakdown of all collections in the preceding calendar year for the following categories of insurance:

1. Casualty;

2. Automobile;

3. Inland marine;

4. Fire and allied perils;

5. Health; and

6. Life.

(b) The report shall categorize the license fee or tax remitted according to city, county, or urban-county government.

(c) Any city, county, or urban-county government may have access to the information in this subsection upon the written request of the legislative body of the requesting city, county, or urban-county government. Information provided under this paragraph shall be furnished at the expense of the requesting entity.

(10) (a) All agents, as defined in KRS 304.9-020, shall notify the Department of Insurance of any premiums that would qualify for a license fee or tax imposed by this section.

(b) Any agent who fails to notify the Department of Insurance of premiums that would qualify for a license fee or tax may be subject to disciplinary action pursuant to KRS 304.9-440, if the agent has been placed on notice of the license fee or tax by the appropriate city, county, or urban-county government.

(11)[~~(9)~~] Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(12)[~~(10)~~] No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225.

(13)[~~(11)~~] No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(14)[~~(12)~~] (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

(15)[~~(13)~~] No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

(16) Unless expressly authorized by statute, all information, documents, and copies thereof obtained by or disclosed to the commissioner of the Department of Insurance under this section shall be given confidential treatment and shall not be subject to subpoena or be made public by the commissioner without the prior written consent of the insurer to which it pertains. Information collected and maintained by the Department of Insurance under this section shall not be open to public inspection under KRS 61.870 to 61.884.

The Committee Substitute to **HB 249** is as follows:

HB 249, AN ACT relating to insurance premium surcharges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) *(a)* Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government.

(b) Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(c) If the Department of Insurance finds that an insurance company has willfully engaged in a pattern of business conduct that fails to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section, the Department of Insurance may assess the responsible insurance company an appropriate penalty fee no greater than ten percent (10%) of the additional license fees or taxes determined to be owed to the city, county, or urban-county government. The penalty fee shall be collected by the Department of Insurance and payable to the city, county, or urban-county government owed the license fee or tax less any administrative costs of the Department of Insurance in enforcing this

section. Any insurance company or agent held responsible for a penalty fee may request a hearing with the Department of Insurance to be conducted pursuant to KRS 304.2-310 to 304.2-370 regarding the finding of a willful violation and the subsequent penalty fee.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any ***insurance company or agent that overpays any license fee or tax to a city, county, or urban-county government shall be refunded the amount overpaid***[~~license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection~~].

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

(13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

HB 377, AN ACT relating to code enforcement boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.8825 is amended to read as follows:

(1) Enforcement proceedings before a code enforcement board shall be initiated by the issuance of a citation by a code enforcement officer.

(2) When a code enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of a local government ordinance, the officer is authorized to issue ***and serve*** a citation to the offender. ***If the offender is not on the premises noted on the citation at the time the citation is issued, the code enforcement officer may serve the citation by leaving a copy of the citation with any member of the offender's family aged eighteen (18) or older on the premises while informing the eligible family member of the contents of the citation. If the offender or an eligible family member is not present at the time the citation is issued, or the offender resides at another location, then the code enforcement officer may serve the citation by posting a copy of the citation in a conspicuous place on the premises and by mailing a copy of the citation to the offender's last known mailing address by regular mail through the United States Postal Service, postage prepaid.*** When authorized by ordinance, a code enforcement officer may, in lieu of immediately issuing a citation, give notice that a violation shall be remedied within a specified period of time. ***The code enforcement officer shall serve this notice in the same way that a citation is served.*** If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the code enforcement officer is authorized to issue a citation.

(3) The citation issued by the code enforcement officer shall be in a form prescribed by the local government and shall contain, in addition to any other information required by ordinance or rule of the board:

(a) The date and time of issuance;

(b) The name and address of the person to whom the citation is issued;

(c) The date and time the offense was committed;

(d) The facts constituting the offense;

(e) The section of the code or the number of the ordinance violated;

(f) The name of the code enforcement officer;

(g) The civil fine that will be imposed for the violation if the person does not contest the citation;

(h) The maximum civil fine that may be imposed if the person elects to contest the citation;

(i) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and

(j) A statement that if the person fails to pay the civil fine set forth in the citation or contest the citation, within the time allowed, the person shall be deemed to have waived the right to a hearing before the code enforcement board to contest the citation and that the determination that a violation was committed shall be final.

(4) After issuing a citation to an alleged violator, the code enforcement officer shall notify the code enforcement board by delivering the citation to the administrative official designated by ordinance or by the board.

(5) When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven (7) days of the date the citation is ***served, or within ten (10) days of the date the citation is served if it has been mailed,***[~~issued~~] by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the code enforcement board to contest the citation. If the person fails to respond to the citation within ***the allowed time***[~~seven (7) days~~], the person shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be considered final. In this event, the board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

HB 403, AN ACT relating to county treasurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.010 is amended to read as follows:

Notwithstanding the provisions of KRS 67.710, or any other statute:

(1) (a) The fiscal court of each county, by June 30 every four (4) years, beginning with June, 1999, shall appoint a county treasurer for a term of four (4) years.

(b) In 1998, the fiscal court of each county, by June 30, shall appoint a county treasurer for a term of one (1) year. In 1999 and every four (4) years thereafter, the fiscal court of each county shall appoint a county treasurer for a term of four (4) years pursuant to paragraph (a) of this subsection.

(c) If for any reason the county treasurer is not appointed at the regular June meeting, the county judge/executive shall call the fiscal court to meet on a day fixed by order entered on the order book of the court, and the meeting shall be held before the end of June.

(2) The county treasurer shall take office on the July 1st immediately following his appointment.

(3) No person is eligible to be county treasurer unless at the time of his appointment he is a citizen of Kentucky, ***is*** at least twenty-five (25) years old ***or has obtained a baccalaureate level degree from a regionally accredited institution of higher education***, and has been for the two (2) years next preceding his appointment a resident of the county for which he is appointed. The county treasurer shall take the constitutional oath of office before the fiscal court, and shall execute bond with at least two (2) reputable sureties, to be approved by the fiscal court. The fiscal court may pay the premium on the bond from county funds.

(4) If, at any time, the county treasurer is unable to perform the duties of this office because of illness, physical or mental incapacity, or other cause beyond his control for more than thirty (30) days, or if there is a vacancy created in the office by the resignation or death of the current county treasurer, then the fiscal court shall appoint, at either a regular term or a special term called by the county judge/executive, an acting county treasurer to serve until the current county treasurer is able to resume the performance of his duties, or in the case of the resignation or death of the treasurer, until the end of the current county treasurer's term of office. Should the fiscal court be in doubt as to the treasurer's ability to resume his duties, it shall consult with a licensed physician acceptable to both the fiscal court and the treasurer. If the physician advises that the treasurer is able to perform his duties, the treasurer shall be reinstated within ten (10) days. As soon as the treasurer is reinstated, the acting county treasurer shall cease to act as county treasurer and shall turn over to the county judge/executive all records and accounts and shall make a final settlement with the fiscal court within thirty (30) days. The fiscal court may remove the county treasurer or acting county treasurer at any time for neglect of duty, incompetency, or dishonesty.

HB 408, AN ACT relating to nuisance abatement in local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.770 is amended to read as follows:

(1) It shall be unlawful for the owner, occupant or person having control or management of any land within a city***, county,*** or urban-county to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of rubbish or the excessive growth of weeds or grass.

(2) It shall be unlawful for the owner, occupant, or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish.

(3) It shall be unlawful in any city, county, or urban-county for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the city, county, or urban-county.

(4) Any city, county, or urban-county may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(5) The city, county, or urban-county shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding.

(6) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city, county, or urban-county may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(7) The provisions of subsections (4), (5) and (6) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

The Committee Amendment No. 1 to **HB 408** is as follows:

HB 408, On Page 2, after line 15, by inserting and underlining the following:

"***(8) The provisions of subsection (1) of this section shall not apply to land that is assessed as agricultural land under KRS 132.010.***".

HB 427, AN ACT relating to firefighter participation in the Professional Firefighters Foundation Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.230 is amended to read as follows:

Each local government which meets the following requirements shall be eligible to share in the distribution of funds from the fund:

(1) Employs one (1) or more firefighters.

(2) Pays every firefighter a minimum annual salary of eight thousand dollars ($8,000).

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the commission, for employment of firefighters on or after August 1, 1980. All firefighters employed prior to August 1, 1980, shall be deemed to have met requirements of this subsection.

(4) Requires all firefighters employed on or after July 15, 1982, to successfully complete a basic training course of a minimum of four hundred (400) hours duration as mandated by the commission as to subject matter and number of hours for each subject, within one (1) year of the date of employment at a school or method certified or recognized by the commission.

(5) Requires all firefighters, whether originally employed before or after August 1, 1980, to successfully complete in each calendar year an in-service training program appropriate to the firefighters rank and responsibility, of at least one hundred (100) hours duration at a school certified or recognized by the commission. ***This requirement shall be waived for the period of time that a professional firefighter is serving on active duty in the United States Armed Forces.***

(6) Requires compliance with all provisions of law applicable to local firefighters.

(7) Requires compliance with all rules and regulations, appropriate to the size and location of the local fire department or fire prevention district, issued by the commission to facilitate the administration of the fund and further the provisions of KRS 95A.200 to 95A.300.

The Committee Substitute to **HB 427** is as follows:

HB 427, AN ACT relating to firefighter participation in the Professional Firefighters Foundation Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.230 is amended to read as follows:

Each local government which meets the following requirements shall be eligible to share in the distribution of funds from the fund:

(1) Employs one (1) or more firefighters.

(2) Pays every firefighter a minimum annual salary of eight thousand dollars ($8,000).

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the commission, for employment of firefighters on or after August 1, 1980. All firefighters employed prior to August 1, 1980, shall be deemed to have met requirements of this subsection.

(4) Requires all firefighters employed on or after July 15, 1982, to successfully complete a basic training course of a minimum of four hundred (400) hours duration as mandated by the commission as to subject matter and number of hours for each subject, within one (1) year of the date of employment at a school or method certified or recognized by the commission.

(5) Requires all firefighters, whether originally employed before or after August 1, 1980, to successfully complete in each calendar year an in-service training program appropriate to the firefighters rank and responsibility, of at least one hundred (100) hours duration at a school certified or recognized by the commission. ***This requirement shall be waived for the period of time that a professional firefighter is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for professional firefighters from the date of September 11, 2001.***

(6) Requires compliance with all provisions of law applicable to local firefighters.

(7) Requires compliance with all rules and regulations, appropriate to the size and location of the local fire department or fire prevention district, issued by the commission to facilitate the administration of the fund and further the provisions of KRS 95A.200 to 95A.300.

Section 2. KRS 15.404 is amended to read as follows:

(1) Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete at least six hundred forty (640) hours of basic training at a school certified or recognized by the Kentucky Law Enforcement Council.

(2) All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the officer's rank and responsibility and the size and location of his department. ***This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001.***

(3) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.

(4) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status. When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.

(5) An officer who has lost his or her law enforcement powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and law enforcement powers upon successful completion of the training deficiency.

Section 3. KRS 15.404 is amended to read as follows:

(1) Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete at least six hundred forty (640) hours of basic training at a school certified or recognized by the Kentucky Law Enforcement Council.

(2) All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the officer's rank and responsibility and the size and location of his department. ***This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001.***

(3) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.

(4) Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status. When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.

(5) An officer who has lost his or her law enforcement powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and law enforcement powers upon successful completion of the training deficiency.

HB 463, AN ACT relating to collection of local government insurance premium taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance ***company's appointed agent of record for the taxed policy***[~~company or its agent~~] as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein

provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

(13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

The Committee Amendment No. 1 to **HB 463** is as follows:

HB 463, On page 2, line 13, after "by" by inserting "***: (a)***"; and

On page 2, line 14, after "***policy***" by inserting "***if the insurance company is not an exclusive agency insurer; or***

(b) The insurance company if the insurer is an exclusive agency insurer.

The collection fee shall be retained".

HB 468, AN ACT relating to land bank authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.350 is amended to read as follows:

(1) "Authority" means the land bank authority established pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;

(2) "Agreement" means the interlocal cooperation agreement entered into by the parties pursuant to KRS 65.210 to 65.300 and KRS 65.350 to 65.375;

(3) "Local government" means every city, regardless of classification, every county, and every ***consolidated local government and*** urban-county government;

(4) "Parties" means the parties to the agreement, that shall include any local government, the local school district***, which may include county and independent school districts,*** within the county and the Commonwealth of Kentucky;

(5) "Property" means real property, including any improvements thereon; and

(6) "Tax delinquent property" means any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable.

Section 2. KRS 65.355 is amended to read as follows:

(1) Any local government, the ***county or independent***[~~local~~] school district within the county, and the Commonwealth of Kentucky may enter into an interlocal cooperation agreement pursuant to KRS 65.210 to 65.300 for the purpose of establishing a land bank authority pursuant to KRS 65.350 to 65.375.

(2) The authority shall be a public body corporate and politic with the power to sue and be sued, issue deeds in its name, and any other powers necessary and convenient to carry out these powers or that may be granted to the authority by the parties.

(3) The authority shall be established to acquire the tax delinquent properties of the parties in order to foster the public purpose of returning land that is in a non-revenue generating, non-tax producing status to effective utilization in order to provide housing, new industry, and jobs for the citizens of the county. The authority shall have the powers provided in KRS 65.370 and 65.375 and in the interlocal cooperation agreement.

Section 3. KRS 65.360 is amended to read as follows:

(1) The authority shall be governed by a board composed of one (1) member appointed by each unit of local government that is a party to the agreement, one (1) member appointed by the superintendent of schools of the county school district ***or of the independent school district***, and one (1) member appointed by the Governor. Each member shall serve at the pleasure of the respective appointing authority for a term of four (4) years and shall serve without compensation. The members shall be residents of the county and may be employees of the parties and shall serve without additional compensation. Any vacancy shall be filled in the same manner as the original appointment.

(2) The board of the authority shall meet as required, and three (3) members shall constitute a quorum. Approval by a majority of the membership shall be necessary for any action to be taken by the authority. All meetings shall be open to the public, except as otherwise permitted by KRS 61.810, and a written record shall be maintained of all meetings. A chairman shall be elected from among the members, and he shall execute all deeds, leases, and contracts of the authority when authorized by the board.

(3) The authority may employ its own staff or may utilize employees of the parties, as determined by the agreement.

HB 473, AN ACT relating to municipalities and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.40-315 is amended to read as follows:

(1) No permit to construct or expand a municipal solid waste disposal facility shall be accepted for processing by the cabinet unless the application contains a determination from the governing body for the solid waste management area in which the facility is or will be located concerning the consistency of the application with the area solid waste management plan submitted under KRS 224.43-345(1)(a) to (d) and (l) until January 1, 1993, and the entire plan after January 1, 1993. The governing body for the area shall, within sixty (60) days of receipt of a written request, make the determination after public notice and opportunity for public comment and public hearing. For applications with a notice of intent filed prior to February 26, 1991, the cabinet shall continue to process the application but no permit shall be approved until the governing body for the solid waste management area in which the facility is or will be located has made a determination in accordance with this section.

(2) No permit to construct or expand a municipal solid waste disposal facility shall be approved unless the applicant affirmatively demonstrates and the cabinet makes a written finding in the preliminary determination made pursuant to KRS 224.40-310(2) that the application conforms to and is consistent with all of the following:

- (a) The capacity needs identified in the area solid waste management plan;
- (b) Other elements of the area solid waste management plan, for permit applications filed after approval of those elements;
- (c) The statewide solid waste reduction and management plan, for permit applications filed after completion of the plan; and
- (d) Applicable zoning regulations adopted pursuant to KRS Chapter 100.

(3) If the cabinet approves a permit to construct or expand a municipal solid waste management facility after the governing body for the area has determined the application to be inconsistent with the area solid waste management plan, as part of the written finding the cabinet shall state in detail the reasons why it did not accept the determination of the governing body for the area.

(4) For the purposes of this section, the term municipal solid waste disposal facility includes, in addition to those facilities defined in KRS 224.01-010(15), ***any facility utilizing waste, processed waste or refuse-derived fuel material as a fuel for***

the generation of electricity, and any residual or contained landfill or incinerator disposing of industrial solid waste for a fee, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary.

Section 2. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the Environmental Quality Commission;

(6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;

(7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:

(a) "Composting" may include a process which creates an anaerobic zone within the composting material;

(b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;

(8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(11) "District" means an air pollution control district as provided for in KRS Chapter 77;

(12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(13) "Generator" means any person, by site, whose act or process produces waste;

(14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;

(15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;

(16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;

(17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;

(19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;

(20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;

(21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;

(22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;

(23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable ***recyclable*** materials~~[for recycling]~~ and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;

(24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;

(26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;

(28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(31) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;
2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
4. "Municipal solid waste" means household solid waste and commercial solid waste; and

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);

(33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;

(35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;

(36) "NPDES" means National Pollutant Discharge Elimination System;

(37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;

(39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;

(40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;

(41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;

(42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;

(43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;

(44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers,

directors, or shareholders of five percent (5%) or more of stock or financial interest;

(45) "Universal collection" means a municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;

(46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;

(47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;

(48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;

(49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;

(50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);

(51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;

(52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; and

(53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper.

Section 3. Whereas the potential exists for electricity generating plants using refuse and refuse-derived fuel to seek permits in the immediate future and the consequent inability to meet the need presented by such requests if this Act were not to become effective until ninety (90) days after adjournment sine die, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 496, AN ACT relating to air boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.132 is amended to read as follows:

(1) Any urban-county government, city, or county, or city and county acting jointly, or any combination of two (2) or more cities, counties, or both, may establish a nonpartisan air board composed of six (6) members. Any city other than the first class and county jointly or an urban-county government established pursuant to KRS Chapter 67A may establish a nonpartisan board composed of ten (10) members. Any existing six (6) member board, including a board established in an urban-county government, may be expanded to ten (10) members by action of the government entity or entities that established the six (6) member board.

(2) Any city of the first class, jointly with the county containing the city or a consolidated local government, may establish or maintain a nonpartisan air board. Membership of the board shall be appointed in accordance with subsection (6) or (10) of this section. ***Any air board established or maintained in a county containing a city of the first class or consolidated local government shall be composed of eleven (11) members.***

(3) The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with, and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.

(4) The members of an air board composed of six (6) members shall be appointed as follows:

  (a) If the air board is established by a city, the members shall be appointed by the mayor of the city;

  (b) If the air board is established by a county, the members shall be appointed by the county judge/executive except that in the event that an airport is located outside the boundary of the county establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (7) of this section and receive full voting privileges on matters brought before the airport board;

  (c) If the air board is established as a joint city-county air board, the members shall be appointed jointly by the mayor of the city and the county judge/executive;

  (d) If a combination of cities, counties, or both, establishes a joint air board, the mayors and county judges/executive involved shall jointly choose six (6) members and shall jointly choose successors;

  (e) If the air board is established by an urban-county government, the mayor of the urban-county government or an officer of the urban-county government designated by the mayor shall serve as one (1) member of the board. The remaining five (5) members shall be appointed by the mayor. One (1) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

(5) The members of an air board composed of ten (10) members in a city other than a city of the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A shall be appointed as follows:

(a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;

(b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.

(6) [~~The members of~~]An air board ***consisting of eleven (11) members and*** established jointly by a city of the first class and the county containing the first class city shall be composed of[~~ the mayor of the city of the first class and the county judge/executive of the county, and other~~] members[~~ appointed~~] as follows:

(a) ***The mayor of the city of the first class;***

(b) The county judge/executive of the county containing the city of the first class;

(c) Three (3) members[~~ shall be~~] appointed by the mayor of the city of the first class;

(d)[~~(b)~~] Three (3) members[~~ shall be~~] appointed by the county judge/executive of the county, with the approval of the fiscal court;[~~ and~~]

(e)[~~(c)~~] Two (2) members, who shall be residents of the county containing a city of the first class or of counties contiguous thereto,[~~ shall be~~] appointed by the Governor***; and***[~~ of the Commonwealth.~~]

(f)[~~(d)~~] ***One (1) member, who shall be a member of the executive board of***[~~If there is~~] an incorporated alliance of incorporated neighborhood associations and fifth or sixth class cities[~~,~~] which represents citizens living within a five (5) mile radius of airport operations, ***appointed by*** the Governor[~~ shall appoint one (1) member of the executive board of an alliance as an additional member to the air board~~]. If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of ***any of***[~~all~~] the incorporated alliances. ***If no alliances exist, the Governor shall appoint a citizen of the county who resides within a five (5) mile radius of airport operations.***

(7) An air board consisting of eleven (11) members and established or maintained by a consolidated local government upon its establishment shall be composed of members as follows;

(a) The mayor of the consolidated local government;

(b) Seven (7) members appointed by the mayor of the consolidated local government;

(c) Two (2) members, who shall be residents of the county containing the consolidated local government or residents of counties contiguous to the county containing the consolidated local government, appointed by the Governor; and

(d) One (1) member, who shall be a member of the executive board of an incorporated alliance of incorporated neighborhood associations and fifth or sixth class cities which represents citizens living within a five (5) mile radius of airport operations, appointed by the Governor. If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of any of the incorporated alliances. If no alliances exist, the Governor shall appoint a citizen of the county who resides within a five (5) mile radius of airport operations.

(8)[~~(7)~~] The members of an air board composed of ten (10) members established by an urban-county government shall be composed of the mayor of the urban-county government or an officer of the urban-county government designated by the mayor. The remaining nine (9) members shall be appointed by the mayor. Two (2) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

(9)[~~(8)~~] Members of the board composed of six (6) members shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Upon expiration of the staggered terms, successors shall be appointed for a term of four (4) years.

(10)[~~(9)~~] Members of the board composed of ten (10) members in a city other than a city of the first class and county jointly shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments made by the mayor and the county judge/executive shall be made so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years. If an existing six (6) member board is being increased to a ten (10) member board, initial appointments of the four (4) new members shall be made so that the mayor and the county judge/executive, or the mayor if the board is established by an urban-county government, each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of the initial terms, successors shall be appointed for a term of four (4) years. In the case of a board established by an urban-county government, the term of the mayor for the urban-county government, or the officer of the urban-county government designated by the mayor, shall be coextensive with the term of the mayor.

(11)[~~(10)~~] Members of ***an air***[~~the~~] board composed of eleven (11) members and established or maintained jointly by a city of the first class and the county containing a city of the first class shall serve for a term of three (3) years each and until their successors are appointed and qualified. The terms of the mayor and the county judge/executive shall be coextensive with their terms of office. The mayor and the county judge/executive shall each make their initial appointments to a board established jointly by a city of the first class and the county containing a city of the first class so that one (1) member is appointed for one (1) year, one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. The Governor shall make the initial appointments so that one (1) member is appointed for two (2) years and one (1) member is appointed for three (3) years. Upon the expiration of the initial terms, successors shall be appointed for a term of four (4) years.

(12) Members of an air board composed of eleven (11) members in a county that has established[~~Upon the establishment of~~] a consolidated local government in a county containing a former city of the first class, ***shall serve until their successors are appointed and qualified. The terms of office on the air board of the mayor of the previously existing city of the first class and the county judge/executive of this county shall expire upon the establishment of a consolidated local government. Upon the establishment of a consolidated local government, if the consolidated local government maintains the previously existing air board, the***[~~seven (7) members of the board shall be appointed by the mayor of the consolidated local government pursuant to the provisions of KRS 67C.139 for a term of three (3) years.~~] incumbent members***, except the mayor of the previously existing city of the first class and the county judge/executive of that county,***[~~upon the establishment of the consolidated local government~~] shall continue to serve as members of the board for the time remaining of their current terms of appointment. The Governor shall appoint members pursuant to subsection *(7)*[~~6~~](c) and (d) of this section. The mayor ***of the consolidated local government*** shall serve on the board for a term which shall be coextensive with his or her term of office. Incumbent members shall be eligible for reappointment upon the expiration of their terms.[~~ In a consolidated local government that takes effect on January 6, 2003,~~] The terms of all ***other*** board members shall[~~ continue to~~] be for ***four (4)***[~~three (3)~~] years. ***Upon the establishment of a consolidated local government and maintenance of a previously existing air board, any incumbent member whose term had expired but who had continued to serve because the member's successor had not been appointed, shall continue to serve until a successor is appointed. Successors shall be appointed***[~~The members of the air board on January 6, 2003, shall continue to serve as members for the time remaining on their terms and shall be eligible for reappointment upon the expiration of their terms. The one (1) appointment, which occurs upon the transition of a county containing a city of the first class to a consolidated local government shall be made~~] by the mayor ***or the Governor as provided by law***[~~pursuant to the provisions of KRS 67C.139~~] within sixty (60) days after the establishment of the consolidated local government. As the terms of the ***previously serving members of an***[~~appointments made while the~~] air board ***being maintained by a consolidated local government***[~~was governed by a city of the first class and a county containing the city of the first class~~] expire, the mayor ***of the consolidated local government*** and the Governor shall respectively make their new appointments.

(13)[~~(11)~~] Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board, except for a board composed of eleven (11) members[~~ and established jointly by a city of the first class and the county containing a city of the first class or a consolidated local government~~], shall choose a chairman and vice chairman who shall serve for terms of one (1) year. Where the board is composed of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, the mayor of the city of the first class and the county judge/executive shall jointly appoint the chairman from among the membership of the board. ***Where the board is composed of eleven (11) members and is in a county containing***[~~In~~] a consolidated local government, the mayor shall appoint the chairman from among the membership of the board. The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall execute an official bond to be set and approved by the board, and the cost of the bond shall be paid by the board.

(14)[~~(12)~~] The board may employ necessary counsel, agents, and employees to carry out its work and functions and prescribe rules and regulations as it deems necessary.

(15)[~~(13)~~] The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. The secretary-treasurer shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. The books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. The secretary-treasurer shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.

(16)[~~(14)~~] In the event that a joint air board is created by cities, counties, or both, and thereafter a city or county desires to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the board. A local government wanting to withdraw from participation in the board shall not be entitled to return of any moneys or property advanced to the board.

(17)[~~(15)~~] A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members, a ten (10) member board shall consist of six (6) members, and an eleven (11) member board shall consist of six (6) members. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.

(18)[~~(16)~~] A board member may be replaced by the appointing authority upon a showing to the authority of misconduct as a

board member or upon conviction of a felony. A board member shall not hold any official office with the appointing authority, except for the mayor of a city of the first class and the county judge/executive on a board made up of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, or the mayor of an urban-county government or a consolidated local government, or an officer of the urban-county government designated by the mayor on a board established by an urban-county government.

HCR 21, A CONCURRENT RESOLUTION creating the Task Force on Inter-County Cooperation.

WHEREAS, local government is the level of government that is closest and most responsive to the people of the Commonwealth; and

WHEREAS, local government is the level of government that can most effectively respond to the basic needs of the people of the Commonwealth; and

WHEREAS, local government is the level of government that is most constrained in its ability to raise sufficient revenues to meet the growing needs of the people of the Commonwealth; and

WHEREAS, local government is the level of government where the pooling of resources will most obviously bring the greatest degree of cost efficiency in the delivery of needed services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is hereby directed to create the Task Force on Inter-County Cooperation, which shall examine the possibilities available for counties to create interlocal agreements that allow economies of scale and cost savings in the provision of services. The task force shall also examine options available to the Commonwealth to provide incentives for counties to enter into interlocal agreements for the provision of services among counties.

Section 2. The Task Force on Inter-County Cooperation shall be composed of the following twelve members:

(1) Two members of the Senate, appointed by the President of the Senate;

(2) Two members of the House of Representatives, appointed by the Speaker of the House Representatives;

(3) The commissioner of the Department for Local Government, or the commissioner's designee;

(4) The secretary of the Transportation Cabinet, or the secretary's designee;

(5) Two county officials, appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky Association of Counties;

(6) Two county judge/executives, appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky County Judge/Executive Association; and

(7) Two county magistrates, appointed by the Legislative Research Commission from a list of four nominees submitted by the governing body of the Kentucky County Magistrate Association.

The co-chairs shall be appointed by the Legislative Research Commission. The task force shall examine the possibilities for greater efficiencies and cost savings to counties through the creation of effective interlocal agreements allowing the provision of services across county boundaries. The task force shall examine how the Commonwealth may provide incentives for the creation of these interlocal agreements.

Section 3. The Task Force on Inter-County Cooperation shall report its findings to the Legislative Research Commission no later than August 1, 2003.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 122, A CONCURRENT RESOLUTION authorizing a study of prisoners in county jails.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is hereby created the County Jail Study Commission, which shall study the issue of prisoners in county jails, including, but not limited to, the following:

(1) Costs associated with providing necessary medical, dental, and psychological care for indigent prisoners;

(2) Costs associated with providing necessary medical, dental, or psychological care, beyond routine care and diagnostic services, for prisoners held according to a contractual agreement between the state and county;

(3) Whether the reimbursement allowance from the state to the county for portions of the costs of necessary medical, dental, or psychological care for prisoners exceeding two thousand dollars ($2,000) should be decreased;

(4) The number of indigent prisoners in county jails;

(5) Costs associated with holding prisoners in county jails prior to the sentencing of the prisoners and whether a reimbursement by the Department of Corrections at the usual per diem cost of housing prisoners is sufficient;

(6) Costs associated with holding a person in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction and whether a reimbursement by the Department of Corrections at the usual per diem cost of housing prisoners is sufficient.

Section 2. The President of the Senate shall appoint two (2) members of the Senate and the Speaker of the House of Representatives shall appoint two (2) members of the House of Representatives to the commission. The President of the Senate shall appoint one (1) legislative member as a co-chair, and the Speaker of the House of Representatives shall appoint one (1) legislative member as a co-chair of the commission. In addition to the legislative members, the commission shall consist of the following members:

(1) One (1) member of the Kentucky Jailers' Association chosen by the Legislative Research Commission from a list of three (3) names submitted by the association;

(2) One (1) member of the Kentucky County Judge/Executives Association chosen by the Legislative Research Commission from a list of three (3) names submitted by the association;

(3) The commissioner of the Department of Corrections, or designee; and

(4) The state budget director, or designee.

Section 3. The County Jail Study Commission is directed to report its findings and provide recommendations regarding statutory or regulatory changes necessary to improve the county jails. The commission shall submit a final report of its findings and recommendations to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue by November 1, 2003.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 122** is as follows:

HCR 122, A CONCURRENT RESOLUTION authorizing a study of prisoners in county jails.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is hereby created the County Jail Study Commission, which shall study the issue of prisoners in county jails, including, but not limited to, the following:

(1) Costs associated with providing necessary medical, dental, and psychological care for indigent prisoners;

(2) Costs associated with providing necessary medical, dental, or psychological care, beyond routine care and diagnostic services, for prisoners held according to a contractual agreement between the state and county;

(3) Whether the reimbursement allowance from the state to the county for portions of the costs of necessary medical, dental, or psychological care for prisoners exceeding two thousand dollars ($2,000) should be decreased;

(4) The number of indigent prisoners in county jails;

(5) Costs associated with holding prisoners in county jails prior to the sentencing of the prisoners and whether a reimbursement by the Department of Corrections at the usual per diem cost of housing prisoners is sufficient;

(6) Costs associated with holding a person in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction and whether a reimbursement by the Department of Corrections at the usual per diem cost of housing prisoners is sufficient.

Section 2. The President of the Senate shall appoint two (2) members of the Senate and the Speaker of the House of Representatives shall appoint two (2) members of the House of Representatives to the commission. The President of the Senate shall appoint one (1) legislative member as a co-chair, and the Speaker of the House of Representatives shall appoint one (1) legislative member as a co-chair of the commission. In addition to the legislative members, the commission shall consist of the following members:

(1) One (1) member of the Kentucky Jailers' Association appointed by the Legislative Research Commission from a list of three (3) names submitted by the association;

(2) One (1) member of the Kentucky County Judge/Executives Association from a county operating a full service jail appointed by the Legislative Research Commission from a list of three (3) names submitted by the association;

(3) One (1) member of the County Judge/Executives Association from a county operating a life safety jail appointed by the Legislative Research Commission from a list of three (3) names submitted by the association;

(4) The commissioner of the Department of Corrections, or designee; and

(5) The state budget director, or designee.

Section 3. The County Jail Study Commission is directed to report its findings and provide recommendations regarding statutory or regulatory changes necessary to improve the county jails. The commission shall submit a final report of its findings and recommendations to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue by November 1, 2003.

Section 4. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Education reported **HB 494, HCR 141,** and **SB 17,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 494, AN ACT relating to disability retirement under the Kentucky Teachers' Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.661 is amended to read as follows:

(1) Any member who has completed five (5) or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided in this section. Application for disability benefits shall be made within one (1) year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of employment in a position covered by the Teachers' Retirement System and subsequent to the completion of five (5) years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to sixty percent (60%) of the member's final average salary. Members with twenty-seven (27) or more years of service credit are eligible for service retirement only.

(2) The provisions of KRS 161.520, 161.525, and subsections (3), (4), and (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of these members.

(3) Members shall earn one (1) year of entitlement to disability retirement, at sixty percent (60%) of the member's final average salary, for each four (4) years of service in a covered position, but any member meeting the service requirement for disability retirement shall be credited with no less than five (5) years of eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one (1) year for each year retired for disability. This service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of a medical review committee, and this service shall be used in calculating benefits as provided in subsection (5) of this section, but under no circumstances shall this service be used to provide the member with more than twenty-seven (27) years of total service credit. The service credit shall be valued at the same level as service earned by active members as provided under KRS 161.600 and 161.620.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the entitlement period shall have his disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) of this section. The retirement allowance shall be calculated as set forth in KRS 161.620, except that those persons less than sixty (60) years of age shall be considered as sixty (60) years of age. Members having their disability benefits recalculated under this subsection shall not be entitled to a benefit based upon an average of their three (3) highest salaries as set forth in KRS 161.220(9), unless approved otherwise by the board of trustees.

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy (70) or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period. Members who have their disability retirement allowance recalculated at the expiration of their entitlement period shall be entitled to a minimum monthly allowance of five hundred dollars ($500) as the basic straight life annuity. The minimum allowance shall be effective July 1, 1992, and shall apply to those members who have had their allowance recalculated prior to that date and to disability retirees who will have their benefit allowance recalculated on or after that date.

(7) Effective July 1, 1992, members retired for disability prior to July 1, 1964, shall be entitled to a minimum monthly allowance of five hundred dollars ($500) as their basic straight life annuity and their surviving spouse shall be eligible for survivor benefits as provided in KRS 161.520(1)(a) and (b).

(8) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or any member, who is age sixty (60) years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(9) In order to qualify for retirement by reason of disability a member must suffer from a physical or mental condition

presumed to be permanent in duration and of a nature as to render the member incapable of being gainfully employed in a covered position. The incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of a medical review committee.

(10) A member retired by reason of disability shall be required to undergo ***annual***[~~periodic~~] examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued***, except that, on the recommendation of a medical review committee, examinations may be less frequent but not less than once every five (5) years***. When examination and recommendation of a medical review committee indicate the disability no longer exists, the allowance shall be discontinued.

(11) Eligibility for payment shall begin on the first day of the month following receipt of the application in the Teachers' Retirement System office, or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(12) No person who receives a disability allowance may be employed in a position that entails duties or qualification requirements similar to positions subject to participation in the retirement system either within or without the State of Kentucky. So doing shall constitute a misdemeanor and shall result in loss of the allowance from the first date of this service. A member who applies for and is approved for disability retirement on or after July 1, 2002, and whose annual disability benefit is less than forty thousand dollars ($40,000) may earn income in any occupation other than covered employment only to the extent that the annual income from the other employment when added to the annual disability benefit does not exceed forty thousand dollars ($40,000). For any member who exceeds this limit as a result of income from other employment, the Kentucky Teachers' Retirement System shall reduce the member's disability benefit on a dollar-for-dollar basis for each dollar that the member's combined annual disability benefit and annual income from other employment exceeds forty thousand dollars ($40,000). The board of trustees may annually increase the forty thousand dollar ($40,000) limit by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). All members who applied for disability retirement before July 1, 2002, and were approved as a result of that application shall be subject to the income limitations as they existed on June 30, 2002. The recipient of a disability allowance who engages in any gainful occupation other than covered employment must make a report of the duties involved, compensation received, and any other pertinent information required by the board of trustees.

(13) The board of trustees shall designate medical review committees, each consisting of three (3) licensed physicians. A medical review committee shall pass upon all applications for disability retirement and upon all applicant statements, medical certifications, and examinations submitted in connection with disability applications. The disposition of each case shall be recommended by a medical review committee in writing to the retirement system. Members of a medical review committee shall follow administrative regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The retirement system may secure additional medical examinations and information as it deems necessary. A member may appeal any final agency decision denying his or her disability retirement application pursuant to the provisions of KRS 161.250(2).

(14) A disability may be presumed to be permanent if the condition creating the disability may be reasonably expected to continue for one (1) year or more from the date of application for disability benefits.

(15) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of a medical review committee, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve (12) months of the date disability benefits terminated. If the termination of benefits were voluntary, the reinstatement may be made without medical examination if application is made within three (3) months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

(16) No person who is receiving disability benefits under this section may be employed in a position which qualifies the person for membership in a retirement system financed wholly or in part with public funds. Employment in a position prohibited by this subsection shall result in disqualification for those disability benefits from the date of employment in the prohibited position.

(17) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section, or becomes disqualified from receiving a portion of those benefits due to income from other than covered employment, shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits. The Kentucky Teachers' Retirement System may, in order to collect an outstanding debt, reduce or terminate any benefit that a member is otherwise entitled to receive.

HCR 141, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study the Kentucky Educational Excellence Scholarship Program.

WHEREAS, the 1998 Session of the General Assembly created the Kentucky Educational Excellence Scholarship Program to reward Kentucky's brightest students and to motivate them to continue their postsecondary education career at a Kentucky postsecondary education institution; and

WHEREAS, the Kentucky Educational Excellence Scholarship Program has been in existence for nearly five (5) years; and

WHEREAS, there are program data available that can be analyzed to determine the effectiveness of the program; and

WHEREAS, there are concerns about the fairness in the different high school grading systems across the state that may give advantages to some students and disadvantage others; and

WHEREAS, it is time to analyze the program and make necessary adjustments;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Education shall review the current status of the Kentucky Educational Excellence Scholarship Program, the different high school grading systems across the state, the course-taking patterns of students, the long-term financial needs, and other elements of the program, and make recommendations as needed to the 2004 Session of the General Assembly.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

SB 17, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to ***164.7891***[~~164.785~~], the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky Higher Education Assistance Authority.

(2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.

(3) "Business school" means any business school which is accredited by the ***Accrediting Commission for Independent Colleges and Schools***[~~Association of Independent Colleges and Schools, the commission for business schools,~~] or any successor ***recognized by the United States Department of Education***, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(4) "College" means ***an institution governed by the board of regents of the Kentucky Community and Technical College system or*** any postsecondary educational institution of higher learning which is accredited by ***a***[~~the Southern Association of Colleges and Schools, the commission on colleges, or any successor, or other equivalent~~] regional accrediting association ***recognized by the United States Department of Education***, and which provides a program of study leading to the granting of a postsecondary degree***,***[~~ or~~] diploma***, or certificate***.

(5) "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority-administered programs, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-419, and is secondarily liable for payment on such note.

(9) "Federal Act" means the Higher Education Act of 1965, Pub. L. 89-329, as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment

of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

(15) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.

(18) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(19) ***"Regional accrediting association" means the Middle States Association of Colleges and Schools, Commission on Higher Education; New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, Higher Learning Commission; Northwest Association of Schools and Colleges, Commission on Colleges; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.***

(20) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(21)[~~(20)~~] "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky Board of Nursing Education and Nurse Registration, or any successor, and which provides a program of study leading to the granting of a postsecondary degree or diploma.

(22)[~~(21)~~] "Secretary" means the United States Secretary of Education.

(23)[~~(22)~~] "Vocational school" means[~~ any public vocational school, technical institution, or technology center which is managed and controlled by the board of regents for the Kentucky Community and Technical System and which provides a course of study leading to the granting of a postsecondary certificate or diploma, or~~] a vocational technical school accredited by the ***Accrediting Commission for Career Schools and Colleges of Technology or the National Council for Workforce Education, or any successor recognized by the United States Department of Education***[~~national association of trade and technical schools, or any successor~~], which provides a program of study leading to the granting of a postsecondary degree, diploma, or certificate.

(24)[~~(23)~~] "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 2. KRS 164.785 is amended to read as follows:

(1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:

(a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;

(b) Has been accepted by or is enrolled as a full time student in a Kentucky independent college or university which is accredited by ***a regional accrediting association recognized by the United States Department of Education***[~~the Southern Association of Colleges and Schools~~] and whose institutional programs are not ***composed***[~~comprised~~] solely of a sectarian instruction. An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph;

(c) Is not enrolled in a program of study leading to a degree in theology, divinity, or religious education; and

(d) Has not previously attended college or university for more than seven (7) semesters or the equivalent.

(2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.

(3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

(4) The need of each applicant shall be determined by acceptable need analysis such as the parents' confidential statement of the college scholarship service, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.

(5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Section 3. KRS 164.753 is amended to read as follows:

(1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:

(a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;

(b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and

(c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.

(2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution[~~, except that the total amount of all insured student loans that may be guaranteed by the authority shall not at any time exceed fifteen (15) times the loan guarantee fund balance. In determining the total amount of insured student loans that may be guaranteed by the authority, there shall be excluded from the computation of required loan guarantee fund balances eighty percent (80%) of the amount of insured student loans which are reinsured with the United States or any agency thereof pursuant to the federal act~~].

(3) In the instance of scholarships, ***except scholarships provided pursuant to KRS 164.518,*** the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;

(b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the financial need of the student as determined in accordance with paragraph (f) of this subsection, or the maximum scholarship as established by the board, whichever is less;

(c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma or degree in theology, divinity or religious education;

(d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(f) Ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.

(4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:

(a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this subsection or the maximum grant as established by the board, whichever is less;

(b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education and are not planning to enroll or are not enrolled in a program of study leading to a certificate, diploma, or degree in theology, divinity, or religious education;

(c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;

(d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled as full-time students in a participating institution; and

(e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.

(5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.

(6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:

(a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;

(b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and

(c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Section 4. KRS 164.7891 is amended to read as follows:

(1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.

(2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.

(3) The authority may award scholarships to students who meet the following criteria:

(a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;

(b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy Association or its successor, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;

(c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and

(d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.

(4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between:

(a) The average of the prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine; and

(b) The prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.

(5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the ***sum of all outstanding promissory notes and accrued interest***[~~amount of the scholarship awarded~~].

(6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.

(9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures ***or the terms of promissory notes*** for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, ***the rate of*** repayment ***and deferment of repayment*** of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.

(10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.

(b) Funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.

(c) The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

(d) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.

(12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.

(13) The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars ($19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.

Section 5. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

(1) The trust shall exercise ownership of all contributions made under any participation agreement and all interest derived from the investment of the contributions made by the participant up to the date of utilization for payment of higher education costs for the beneficiary. All contributions made under any participant agreement and interest derived from the investment of the contributions made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;

(2) Any participant may cancel a participation agreement at any time, and terminate the trust's ownership rights thereby created in whole or in part, by delivering an instrument in writing signed and delivered to the program administrator or his designee. In the event the participation agreement is terminated in part, the trust shall retain ownership of all contributions made under the participation agreement not previously expended for the higher education costs of the beneficiary and not returned to the participant. The participant shall retain a reversionary right to receive upon termination the actual market value of the participant's account at the time of the cancellation, including interest, except that the participant ***may***[~~shall~~] be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;

(3) Any participant may cancel a participation agreement and shall be permitted to transfer funds to the Commonwealth postsecondary education prepaid tuition trust fund established in KRS 164A.701, and in compliance with administrative regulations promulgated by the board for the savings plan trust***;***[~~.~~]

(4) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant, except that the participant ***may***[~~ shall~~] be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (8) of this section;

(5) The institution of higher education shall obtain ownership of the distributions made from the participant's account for the higher education costs paid to the institution at the time each payment is made to the institution;

(6) Any amounts received by the trust pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section shall be owned by the trust;

(7) A participant may transfer the participant's rights to another eligible participant, including, but not limited to, a gift of the participant's rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be ***effected***[~~affected~~] and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement;

(8) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No penalty shall be charged when a refund is made due to:

(a) The death, permanent disability, or mental incapacity of the beneficiary; or

(b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of Title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of Section 102(a) of the Internal Revenue Code, 26

U.S.C. sec. 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment; and

(9) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 6. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305***(6)***[~~(7)~~] or refunded under KRS 164A.350***(8)***[~~(7)~~](a) or [~~164A.350(7)~~](b) shall not be subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(7) and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350***(8)***[~~(7)~~](a) ***or*** [~~and 164A.350(7)~~](b).

Section 7. KRS 164.748 is amended to read as follows:

The board shall have the following powers, functions, and duties:

(1) To provide loan guarantees, upon terms and conditions the board may prescribe within the limitations provided by KRS 164.740 to 164.770, and the federal act in respect of loans to eligible borrowers. The board may require additional security, including endorsers it deems necessary and desirable and is not in contravention of the federal act. The purpose of the loans shall be to assist individuals in meeting the expense of their education.

(2) To enter into agreements and undertakings with the secretary as may be required and necessary pursuant to the federal act in order to constitute the authority as a state agency qualified and empowered to insure student loans within the meaning of the federal act and to qualify insured student loans for interest payments, reimbursement, reinsurance, and other benefits available under the federal act to the authority.

(3) To issue loan guarantees in respect of loans made to eligible borrowers by participating lenders, including the authority. No eligible borrower shall obtain an insured student loan from more than one (1) participating lender without prior approval by the board. No loan guarantee shall be issued, executed, and delivered by the authority unless any insured student loan resulting shall be the subject of agreements pursuant to the federal act by which the insured student loan is made the subject of interest payments, reimbursements, reinsurance, and other benefits to the extent provided by the federal act.

(4) To promulgate administrative regulations pursuant to KRS Chapter 13A pertaining to insured student loans, loan guarantees, loans, and work-study payments and the awarding of grants, scholarships, and honorary scholarships, as provided in KRS 164.740 to 164.785.

(5) To enter into contracts with eligible lenders, approved by the state to lend moneys, upon terms and conditions agreed upon between the authority and the eligible lender, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.

(6) To enter into contracts with eligible institutions, upon terms and conditions agreed upon between the authority and the eligible institution, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.

(7) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to expend them, on behalf of the authority and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, absolutely or in trust, and to hold, administer, and dispose of it, on behalf of the authority and for any of its purposes. The authority shall not make its debts payable out of any funds except those of the authority.

(8) To administer federal funds allotted to the state in respect of insured student loans, loan guarantees, loans, work-study, grants, administrative costs, and related matters.

(9) To sue and be sued in the name of the authority and to plead and be impleaded, and to purchase, on behalf of members of the board or officers and employees of the authority, liability insurance for individual protection from liability for acts and omissions committed in the course and scope of the individual's employment or service.

(10) To collect from individual borrowers loans made by the authority and insured student loans on which the authority has been compelled to meet its loan guarantee obligations following the inability of the participating lender involved to collect the insured student loans.

(11) To gather information on all loans, scholarships, honorary scholarships, grants, and work-study opportunities available to Kentucky residents attending or planning to attend an eligible institution and to disseminate the information through the methods of mass communication necessary to ensure that Kentucky residents are aware of financial resources available to those attending or desiring to attend an eligible institution.

(12) To request reports from each eligible institution or eligible lender necessary for the effective performance of its duties and

to publish the information it deems necessary.

(13) To approve, disapprove, limit, suspend, or terminate the participation of, or take emergency action to withhold authority funds and insured student loans from eligible institutions or eligible lenders in programs administered by the board, subject to the provisions of the federal act and this chapter.

(14) To perform other acts necessary or appropriate to carry out effectively the purposes of the authority as provided by KRS 164.740 to ***164.7891***[~~164.785~~] and KRS 164A.010 to 164A.380.

(15) If any conflict exists between KRS 164.740 to 164.770 and the federal act, which conflict would result in a loss by the authority of any federal funds, including, but not by way of limitation, federal funds made available to the authority under the federal act, including interest payments and reimbursement for insured student loans in default, to promulgate regulations and policies consistent with the federal act not in derogation of the Constitution and general laws of the Commonwealth.

(16) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source ***in furtherance of any***[~~for~~] purposes of ***the authority related to***[~~verifying information submitted by any student and any student's parents, or others in loco parentis, in applying for or receiving assistance from~~] any program ***or function*** administered by the authority.

(17) To enter into contracts with public or private nonprofit agencies, eligible to hold or insure student loans under the federal act, to provide for the exchange of information, not in contravention of any federal or state law, or the provision of services necessary to the administration of the authority's insured student loan programs.

(18) To enter into contracts with the Kentucky Higher Education Student Loan Corporation as required pursuant to KRS Chapter 164A.

(19) To conduct, in accordance with KRS Chapter 13B, administrative hearings pertaining to any adverse action by the authority affecting participating institutions and lenders, eligible students, and borrowers of loans made by the authority and insured student loans guaranteed by the authority. Wage garnishment hearings and administrative review procedures pertaining to disputes concerning setoff of federal tax refunds shall be exempt under KRS 13B.020 and shall be conducted in accordance with applicable federal law. In an exempt hearing, the board or a hearing officer designated by the board may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to the issues in dispute. Compliance with the subpoenas shall be enforceable by a court of competent jurisdiction.

(20) To provide upon termination of the retirement plan authorized by Executive Order 75-964 to active and retired employees of the authority who participated in that plan, health insurance premiums and disability insurance benefits as provided to employees who participate in a state-administered retirement system pursuant to KRS 18A.225 to 18A.229, 61.600, and 61.702.

(21) To delegate to the executive director general supervision and direction over the administrative function of the authority and its employees in carrying out the policies, programs, administrative regulations, and directives of the board.

Section 8. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;

(7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(8) "Eligible high school student" means any person who:

  (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

  (b) Was enrolled after July 1, 1998:

    1. In a Kentucky high school ***for***[~~,~~] at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; ***or***

    2. In a Kentucky high school for the fall academic term of the senior year and who:

      a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year; ***and***

3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

(c) Is not a convicted felon;

(9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

(b) Has the required postsecondary G.P.A. required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(13) "KEES" means Kentucky educational excellence scholarship;

(14) "KEES curriculum" means five (5) courses of study***, except for students who meet the criteria of subsection (8)(b)2. of this section,*** in an academic year as determined ***in accordance with an***~~[by]~~ administrative regulation promulgated by the council;

(15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs~~[and provides annual documentation to the authority of compliance]~~;

(19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 9. KRS 164.746 is amended to read as follows:

(1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors.

(a) Subject to paragraph (b) of this subsection, voting members of the board shall consist of***:***

1. Seven (7)~~[voting]~~ members who shall be appointed ***from the general public residing in the Commonwealth of Kentucky*** by the Governor ***from nominees submitted by the Governor's Postsecondary***

Education Nominating Committee under KRS 164.005; and

2. Eight (8) members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to subsection (3)(a)1. of Section 10 of this Act, who shall serve terms of office on the authority board of directors coextensive with their respective terms of office on the Kentucky Higher Education Student Loan Corporation board of directors.

(b) Upon resignation or expiration of the term of an appointed member of the board of the authority or the Kentucky Higher Education Student Loan Corporation, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the authority and the Kentucky Higher Education Student Loan Corporation to ten (10) members.

(c) In addition, the president of the Council on Postsecondary Education, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, ***the commissioner of education,*** and the secretary of the[~~ Cabinet of~~] Finance and Administration ***Cabinet, or their designees who shall be another official of the same cabinet or agency,*** shall serve as voting ex officio members.

(d) The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and***, except as provided in paragraph (b) of this subsection, shall serve*** until his successor is appointed.

(2) ***Subject to paragraph (b) of subsection (1) of this section,*** appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.

(3) The board shall elect from its voting membership a ***chair, chair-elect, and secretary-treasurer***[~~chairman and chairman-elect~~] who shall each serve for a term of one (1) year. At the conclusion of the ***chair's***[~~chairman's~~] term of office, the ***chair-elect***[~~chairman-elect~~] shall become ***the chair***[~~chairman~~] for the succeeding year and the board shall elect from its voting membership a new ***chair-elect***[~~chairman-elect~~].

(4) Board members, except officers or employees of the state, shall receive compensation for their services, in the amount of one hundred dollars ($100) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

(5) The board shall provide for the holding of regular meetings and special meetings.

(a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the ***chair***[~~chairman~~] in accordance with KRS 61.823, and either the ***chair or the chair-elect***[~~chairman or the chairman-elect~~] shall be present for the transaction of any business.

(b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.

(7) The board may:

(a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and

(b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

(8) The Office of the Treasurer and the board of the Kentucky Higher Education Assistance Authority shall work together to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.

Section 10. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.

(2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.

(3) ***(a) Subject to paragraph (b) of this subsection,*** the corporation shall be governed by a board of directors consisting of***:***[~~ eleven (11) members,~~]

1. Eight (8) *voting members*[~~of whom shall be~~] chosen from the general public residing in the Commonwealth of Kentucky*; and*

2. Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to subsection (1)(a)1. of Section 9 of this Act, who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors.

(b) Upon resignation or expiration of the term of an appointed member of the board of the corporation and the Kentucky Higher Education Assistance Authority, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members.

(c) In addition, the president[~~and three (3) of whom shall be the chairman~~] of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, *the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members*[~~and the chairman of the Kentucky Higher Education Assistance Authority~~].

(4) The Governor shall appoint[~~ the eight (8)~~] directors *according to subsection (3)(a)1. of this section* from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director shall serve for the appointed term and*, except as provided in subsection (3)(b) of this section, shall serve* until a successor has been appointed and has duly qualified.

(5) *Except as provided in subsection (3)(b) of this section,* in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.

(6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a *chair, chair-elect, and secretary-treasurer*[~~chairman, secretary, and treasurer~~]. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The *secretary-treasurer*[~~secretary~~] of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The *secretary-treasurer*[~~secretary~~] may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the *chair*[~~chairman~~] upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.

(11) Directors, except officers or employees of the state, shall receive one hundred dollars ($100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.

(12) The Kentucky Higher Education Assistance Authority, the "guarantee agency", shall provide technical, clerical, and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making, and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

Section 11. The General Assembly confirms Executive Order 2002-849, dated July 18, 2002, and Executive order 2002-848, dated July 18, 2002, which relate to expansion of the Kentucky Higher Education Assistance Authority's board of directors and the Kentucky Higher Education Student Loan Corporation's board of directors, respectively, to the extent the orders are not otherwise confirmed or superseded by this Act. On making appointments to the boards of directors of the Kentucky Higher Education Assistance Authority and the Kentucky Higher Education Student Loan Corporation, the Governor shall, to the extent reasonably possible, ensure that the appointee shall have experience in the fields of education, business, or financial matters that would be relevant to the functions of the organizations; and that appointments reflect the racial, gender, political, and geographical diversity and composition of the Commonwealth.

Section 12. The following KRS section is repealed:

164.7893 Requirements for educational institutions for students to receive student financial assistance.

The Committee on Tourism Development and Energy reported **HB 306, HB 373, HB 451,** with Committee Amendment attached thereto, **HB 465, HCR 113,** and **HCR 99,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 306, AN ACT relating to the records of Public Service Commission proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.360 is amended to read as follows:

A full and complete record shall be kept of all contested proceedings had before the commission or any commissioner on any formal hearing ***and may, at the commission's discretion, be made in videotape or other format. A stenographic transcript shall not be required; however, a party to a proceeding may, by motion to the commission made prior to the hearing, request that a stenographic transcript be made by a reporter approved by the commission***[~~, and all testimony shall be taken down by a reporter appointed by the commission~~].

HB 373, AN ACT relating to rural electric cooperative corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.080 is amended to read as follows:

(1) Each corporation formed under this chapter shall have a board of directors of not less than five (5) members, which shall be the governing body of the corporation. Unless otherwise provided in the articles of incorporation, directors need not be members of the corporation. The directors, other than those named in the articles of incorporation, shall be elected annually or as provided for in the bylaws, but no director shall be elected for a longer term than ***four (4)***[~~three (3)~~] years. The directors shall be elected in a manner to insure secrecy and anonymity of ballots cast, provided the result of such election is determined by ballot vote. The directors shall receive such compensation and reimbursement of expenses as the bylaws provide. When a vacancy on the board of directors occurs other than by expiration of a term, the remaining members of the board, by a majority vote, shall fill the vacancy for the remainder of the term by appointment, unless the bylaws otherwise provide.

(2) Subject to the provisions of the articles of incorporation and the bylaws, the board of directors may adopt rules and regulations governing the procedure of the board and the operations of the corporation, and shall manage and conduct the business and affairs of the corporation.

(3) The officers of a corporation shall consist of a president, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two (2) or more offices may be held by the same person, except that the offices of the president and secretary may not be held by the same person. All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws.

(4) Every officer, employee, or agent handling funds, securities, or negotiable instruments of or for any corporation created under this chapter shall be required to execute an adequate bond for the faithful performance of his duties in an amount and with security approved by the board.

HB 451, AN ACT relating to tourism development and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the Tourism Development Cabinet and the

authority pursuant to KRS 148.859 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

(b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;

(5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Development Cabinet pursuant to KRS 148.855. An eligible company may operate or intend to operate directly or indirectly through a lessee;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;

(9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;

(10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 148.851 to 148.860;

(11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12) ***"Theme restaurant destination attraction" means a restaurant facility that has:***

(a) Construction, equipment, and furnishing costs in excess of five million dollars ($5,000,000);

(b) Seating capacity of four hundred fifty (450) guests, of which an annual average of not less than fifty percent (50%) shall be guests who are not residents of the Commonwealth;

(c) Business plans that indicate that the attraction shall be in operation and open to the public no less than three hundred (300) days per year and for no less than eight (8) hours per day;

(d) Business plans that indicate that the attraction shall offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public, and shall offer a unique dining and cultural experience that is not available elsewhere in the Commonwealth; and

(e) Food and nonalcoholic drink options that constitute a minimum of fifty percent (50%) of total gross sales receipts;

(13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural

phenomenon or scenic beauty, a Kentucky crafts and products center, ***a theme restaurant destination attraction,*** or an entertainment destination center. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless:

1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency;

2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council; or

3. The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars ($10,000,000).

(b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, ***a theme restaurant destination attraction,*** a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(14)[~~(13)~~] "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 2. KRS 148.855 is amended to read as follows:

(1) The secretary of the Tourism Development Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Development Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism Development Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Development Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000)***, except for a theme restaurant destination attraction's project cost, which shall exceed five million dollars ($5,000,000),*** and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Development Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the Tourism Development Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Development Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism Development Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth***, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth***;

(b) Shall have costs in excess of one million dollars ($1,000,000)***, except for a theme restaurant destination attraction, which shall have costs in excess of five million dollars ($5,000,000)***;

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year***, except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year***; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(6) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Development Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 3. Whereas competition between states for large-scale, unique theme restaurant destination attractions is increasingly fierce, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 451** is as follows:

HB 451, On page 8, line 2 by inserting the following:

"Section 3. KRS 148.859 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company;

(b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority; and

(c) The following provisions:

1. The term shall be ten (10) years from the later of:

a. The date of the final approval of the project; or

b. The completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project;

2. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section; and

3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:

a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth***, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth***; or

b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851."

On page 8, line 2, by renumbering Section 3 as Section 4.

HB 465, AN ACT relating to the Department of Fish and Wildlife Resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.061 is amended to read as follows:

(1) The commission shall appoint a commissioner of the Department of Fish and Wildlife Resources, who shall be a person with knowledge of and experience in the requirements for the protection, conservation and restoration of the wildlife resources of the state. The commissioner shall serve for an indefinite term, subject to removal by the commission for the same cause and in the same manner in which the Governor may remove a member of the commission.

(2) The commissioner shall receive such compensation as the commission may determine, and shall be reimbursed for all actual and necessary travel and other expenses incurred by him in the performance of his official duties.

(3) Before entering upon the duties of his office, the commissioner shall take and subscribe to the constitutional oath of office, and shall, in addition thereto, swear or affirm that he holds no other public office, nor any position upon or under any political committee or party. Upon appointment by the commission, the commissioner shall execute a bond of five thousand dollars ($5,000) in favor of the Department of Fish and Wildlife Resources, the premium on said bond to be paid out of department funds.

(4) The commissioner shall have general supervision ***and***~~[or]~~ control of all activities, functions***, appointments,*** and employees of the Department of Fish and Wildlife Resources.~~[He shall at all times require a bond from each director, officer or employee in or attached to his department, the premium to be paid out of department funds.]~~ He shall enforce all provisions of the laws of the state relating to wild animals, birds, fish and amphibians, and shall exercise all powers necessarily incident thereto not specifically conferred on the commission. The commissioner shall make an annual report of all receipts and disbursements and file same with the Secretary of State of the Commonwealth of Kentucky.

(5) If federal or other grant funds become available to pay their salaries, the commissioner may appoint and employ other persons that he may deem necessary or desirable to accomplish the purposes of this chapter. The commissioner shall determine the compensation, duties, and terms of employment of these employees. Employees whose salaries are funded through federal or other grant funds shall not be counted in any tally of permanent employees made for employee cap or budgetary purposes.

HCR 113, A CONCURRENT RESOLUTION supporting the efforts of the U. S. Enrichment Corporation as it pursues improvements in energy production through technological advances.

WHEREAS, since 1993 when it first entered into a lease agreement to operate the Paducah Gaseous Diffusion Plant and continuing after 1998, when it became a private corporation, the U. S. Enrichment Corporation (USEC) has maintained and improved the vital national service of uranium enrichment conducted at the Paducah facility; and

WHEREAS, USEC has undertaken this task in partnership with the officials of the city of Paducah and McCracken county, and the many highly skilled and specialized employees working at and supporting the plant; and

WHEREAS, the Megatons to Megawatts program of shifting uranium enrichment from nuclear weapons production to nuclear energy generation has placed USEC on a path of improving efficiency through technological advances; and

WHEREAS, USEC will be testing an updated technology of gas centrifuge uranium enrichment in the next few years and continues to invest in a third-generation laser-based enrichment process; and

WHEREAS, Kentucky, as a key energy resource state, has local, state, and federal leaders who are committed to continuing the partnership with USEC as it continues the advancement of uranium enrichment for energy production; and

WHEREAS, even though USEC has announced that it will site the pilot plant for its next generation enrichment facility in Ohio, Kentucky remains firmly committed to attracting the full scale production enrichment facility;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Commonwealth of Kentucky commits to continuing its long-standing partnership with and supports the U. S. Enrichment Corporation in its efforts to effectively produce nuclear energy resources. To that end, the Commonwealth offers the resources of the state to aid in USEC's development and deployment of the next generation of uranium enrichment technologies. The offered resources may include, for example only, maintenance of the skilled, specialized workforce in Paducah and surrounding counties, the research capabilities of the state's top universities, assistance with debt financing, access to programs administered by the Economic Development Cabinet, and other resources appropriate to the specific technological projects undertaken by USEC.

HCR 99, A CONCURRENT RESOLUTION directing a study of coalbed methane and declaring an emergency.

WHEREAS, it is to the benefit of the Commonwealth to maximize the mining of its natural resources; and

WHEREAS, fossil fuels, improved energy efficiency, and clean combustion technology have a role in Kentucky's energy future; and

WHEREAS, energy resource exploration, production, and use have significant impacts on Kentucky's citizens, its environment, and its economy; and

WHEREAS, five percent (5%) of the nation's natural gas reserves is coalbed methane (CBM) and surveys indicate that there is significant potential for coalbed methane resources in both of Kentucky's coal fields; and

WHEREAS, in 1997 amendments to the Federal Windfall Profits Act of 1980 provided a tax credit of $1.02 per million British thermal units of CBM recovered but developers in regions without state-sponsored CBM legislation did not benefit from the federal tax credits; and

WHEREAS, states that take legislative action that addresses CBM recovery issues benefit economically; and

WHEREAS, competing coal states have enacted legislation to reduce the barriers to developing and implementing coalbed methane projects and

WHEREAS, in regional competing states CBM legislation preceded substantial increases in new CBM development; and

WHEREAS, the barriers to coalbed methane recovery include legal disputes surrounding land, coal, gas, and oil rights and other issues including well spacing, protection of coal seams, mine safety, and environmental protection issues;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. This honorable body declares its support for the development of policies and related legislation having the effect of reducing barriers to CBM recovery.

Section 2. During the 2003 legislative interim, the Special Subcommittee on Energy is directed to study coalbed methane (CBM). The study shall include recommendations on policies and related legislation including, but not limited to, the following areas:

(1) Ownership, including but not limited to forced pooling provisions and escrow arrangements;

(2) The spacing between wells, buildings, and property lines of CMB extraction wells;

(3) Protection of coal seams;

(4) Mine safety;

(5) Environmental protection, as it relates especially to water quality, quantity, and availability; and

(6) Any other policy areas or legislative provisions deemed by the Special Subcommittee on Energy to be in the interest of reducing barriers to CBM recovery while safeguarding the environment.

Section 3. The committee shall report its finding and recommendations for legislative action to the Legislative Research Commission by December 1, 2003.

Section 4. Whereas not enough time would be available for a thorough investigation of the issues required by this study if this resolution became effective ninety (90) days after adjournment sine die, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Section 5. Provisions of this resolution to the contrary notwithstanding, the Legislative research commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof and designate a study completion date.

The Committee on Appropriations and Revenue reported **HB 390,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 390, AN ACT relating to the enforcement of the Tobacco Master Settlement Agreement, making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.600 is amended to read as follows:

As used in this section***,***~~[and]~~ KRS 131.602 ***and 131.990, and Sections 2 to 15 of this Act***:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

(5) "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602(2).

(7) "Released claims" means released claims as that term is defined in the master settlement agreement.

(8) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(9) "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection.

(10) "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco containers bearing the excise tax stamp of Kentucky. The Revenue Cabinet shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 15 of this Act:

(1) "Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or

otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, and unclassified acquirers as defined in KRS 138.130.

(3) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(4) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto.

(5) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.

(6) "Master settlement agreement" has the same meaning as in Section 1 of this Act.

(7) "Cigarette" has the same meaning as in Section 1 of this Act.

(8) "Secretary" means the secretary of the Revenue Cabinet.

(9) "Cabinet" means the Revenue Cabinet.

(10) "Tobacco product manufacturer" has the same meaning as in Section 1 of this Act.

(11) "Units sold" has the same meaning as in Section 1 of this Act.

(12) "Qualified escrow fund" has the same meaning as in Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that violations of KRS 131.600 and 131.602 threaten the integrity of the tobacco master settlement agreement, the fiscal soundness of the state, and the public health. The legislature finds that enacting procedural enhancements will aid enforcement of KRS 131.600 and 131.602 and thereby safeguard the master settlement agreement, the fiscal soundness of the state, and the public health. The provisions of Sections 2 to 15 of this Act are not intended, and shall not be interpreted, to amend KRS 131.600 or 131.602.

SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Prior to selling cigarettes in Kentucky, directly or through a distributor, retailer, or similar intermediary or intermediaries, every tobacco product manufacturer shall certify as true under penalty of perjury that, as of the date of certification, the tobacco product manufacturer is a participating manufacturer or nonparticipating manufacturer in full compliance with the provisions of KRS 131.602 and Section 10 of this Act. The tobacco product manufacturer shall execute and deliver the certification to the Attorney General on a form prescribed by the Attorney General no later than April 30 of each year.

(2) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update the list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General and the secretary.

(3) A nonparticipating manufacturer shall include in its certification a complete list of all of its brand families and provide the following:

(a) A separate list of its brand families of cigarettes and the number of units sold for each brand family that were sold in Kentucky during the preceding calendar year; and

(b) A separate list of all of its brand families that have been sold in Kentucky at any time during the current calendar year including:

1. Indicating by an asterisk any brand family sold in Kentucky during the preceding calendar year that is no longer being sold in Kentucky as of the date of the certification; and

2. Identifying by name and address any other manufacturer of such brand families in the preceding or current calendar year.

(c) Verification that the nonparticipating manufacturer has provided the following:

1. The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established a qualified escrow fund required under KRS 131.602 and all regulations promulgated thereunder.

2. The account number of the qualified escrow fund and any subaccount number for the state of Kentucky.

3. The amount the nonparticipating manufacturer placed in the fund for cigarettes sold in Kentucky during the preceding calendar year, the date and amount of each deposit and evidence or verification, as may be deemed necessary, by the Attorney General to confirm the foregoing.

4. The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to KRS 131. 602 and all administrative regulations promulgated thereto.

(4) In the case of a nonparticipating manufacturer, the certification shall further certify:

(a) That the nonparticipating manufacturer is registered to do business in Kentucky or has appointed a resident agent for service of process and provided notice as required by Section 7 of this Act.

(b) That the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund pursuant to KRS 131.602 and has executed a qualified escrow agreement that governs the qualified escrow fund and that has been reviewed and approved by the Attorney General.

(c) That the nonparticipating manufacturer is in full compliance with KRS 131.602, Sections 2 to 15 of this Act, and any administrative regulations promulgated pursuant thereto.

(5) A tobacco product manufacturer may not include a brand family in its certification unless:

(a) In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement.

(b) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes pursuant to KRS 131.602.

(6) The nonparticipating manufacturer shall update all lists thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the secretary and the Attorney General.

(7) Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of KRS 131.602.

(8) The tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for a certification for a period of five (5) years.

SECTION 5. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall develop and make available for public inspection, to include publishing on its website, a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to Section 4 of this Act and all brand families that are listed in the certifications. The listing shall be referred to as the "directory" and completed no later than July 1 of each certification year.

(2) The cabinet shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with Section 4 of this Act, unless the Attorney General has determined that such violation has been satisfactorily cured.

(3) Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the Attorney General determines in the case of a nonparticipating manufacturer that:

(a) Any escrow payment required pursuant to KRS 131.602 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or

(b) All outstanding final judgments, including interest thereon, for violations of KRS 131.602 have not been fully satisfied for the brand family and the manufacturer.

(4) Upon receipt of information from the Attorney General, the cabinet shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section and Sections 4 and 10 of this Act. The cabinet shall transmit, by electronic mail or other practicable means, notice to each stamping agent and distributor of any addition to or removal from the directory of any tobacco product manufacturer or brand family.

(5) Every stamping agent and distributor shall provide and update as necessary an electronic mail address to the cabinet for the purpose of receiving any notifications that may be required by this section and Sections 4, 8, 10, and 12 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any stamping agent or distributor to affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory.

SECTION 7. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of KRS 131.602 and Sections 2 to 15 of this Act, may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number and proof of the appointment and availability of the agent to the Attorney General.

(2) The nonparticipating manufacturer shall provide notice to the Attorney General thirty (30) calendar days prior to termination of the authority of an agent and shall further provide proof of the appointment of a new agent no less than

five (5) calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the secretary and the Attorney General of the termination within five (5) calendar days and shall include proof of the appointment of a new agent.

(3) Any nonparticipating manufacturer whose products are sold in this state without appointing or designating an agent as required by this section shall be deemed to have appointed the Secretary of State as its agent and may be proceeded against in courts of this state by service of process upon the Secretary of State. The appointment of the Secretary of State as its agent shall not satisfy the condition precedent to having its brand families listed or retained in the directory.

(4) The secretary and the Attorney General may by administrative regulation establish criteria for validating the appointment of an agent for the purposes of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

On or before the twentieth day of each month, each stamping agent and distributor shall submit documentation that the secretary requires to facilitate compliance with this section, including but not limited to a list by brand family of the total number of cigarettes or, in the case of roll-your-own, the equivalent stick count for which the stamping agent or distributor affixed stamps during the previous calendar month or otherwise paid the tax due for the cigarettes or roll-your-own. The stamping agent or distributor shall maintain, and make available to the secretary, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the secretary for a period of five (5) years.

SECTION 9. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 131.190, the secretary is authorized to disclose to the Attorney General any information received under Sections 2 to 15 of this Act requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of Sections 2 to 15 of this Act. The Attorney General may share the information with other federal, state, or local agencies only for the purposes of enforcement of KRS 131.602 and Sections 2 to 15 of this Act or corresponding laws of other states. The Attorney General is further authorized to disclose to a tobacco product manufacturer any information that has been provided by a stamping agent under Sections 2 to 15 of this Act regarding the purchases from that manufacturer. All information provided by a stamping agent to the Attorney General shall be subject to public disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, and may be used in any enforcement action against the manufacturer by the Attorney General.

(2) In addition to the information required to be submitted pursuant to Sections 4, 7, 10, and 12 of this Act, the Attorney General or the secretary may require a stamping agent, distributor, or tobacco product manufacturer to submit any additional information including but not limited to samples of the packaging or labeling of each brand family as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with Sections 2 to 15 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General may, at any time, require from the nonparticipating manufacturer proof from the financial institution in which the manufacturer has established a qualified escrow fund, for the purpose of compliance with KRS 131.600 and 131.602, of the amount of money in the fund, exclusive of interest, the amount and date of each deposit to the fund, and the amount and date of each withdrawal from the fund.

(2) To promote compliance with the provisions of Sections 2 to 15 of this Act, the Attorney General may promulgate administrative regulations requiring a tobacco product manufacturer subject to the requirements of Section 4 of this Act and KRS 131.602 to make the escrow deposits required in installments during the year in which the sales covered by the deposits are made. The Attorney General may require production of information sufficient to enable the Attorney General to determine the adequacy of the amount of the installment deposits.

SECTION 11. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Any cigarettes that have been affixed with a stamp in this state in violation of Section 6 of this Act shall be deemed contraband pursuant to KRS 138.165 and all the cigarettes so seized and forfeited shall be destroyed and not resold.

(2) The Attorney General, on behalf of the secretary, may seek an injunction to restrain a threatened or actual violation of Section 6 or Section 8 of this Act by a distributor or stamping agent and to compel the distributor or stamping agent to comply with Sections 6 and 8 of this Act. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees.

(3) No stamping agent shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent knows or should know are intended for distribution or sale in the state in violation of Section 6 of this Act. A violation of this section is a class A misdemeanor.

(4) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent has violated Section 6 of this Act or any regulation adopted pursuant to Sections 2 to 15 of this Act, the secretary may suspend the sale of cigarette stamps to the stamping agent for failure to comply with the provisions of Sections 2 to 15 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a determination of the Attorney General to not include or to remove from the directory created

in Section 5 of this Act a brand family or tobacco product manufacturer may appeal the determination to the Franklin Circuit Court.

(2) No person shall be issued a license or granted a renewal of a license to act as a distributor or stamping agent unless the person is in compliance with the provisions of Sections 2 to 15 of this Act.

(3) The Attorney General may promulgate administrative regulations necessary to effect the purposes of Sections 2 to 15 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) In any action brought by the state to enforce Sections 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, and 14 of this Act, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees.

(2) If a court determines that a person has violated Sections 2 to 15 of this Act, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be relinquished and paid to the State Treasurer for deposit in the Tobacco Control Special Fund, which is hereby created. Moneys in the fund shall be used for the sole purpose of enforcement of this Act. Unless otherwise expressly provided, the remedies or penalties provided by Sections 2 to 15 of this Act are cumulative to each other and to the remedies or penalties available under all other laws of this state.

SECTION 14. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of KRS 131.600, 131.602, or Sections 2 to 15 of this Act causes KRS 131.600 and 131.602 to no longer constitute a model statute, as it is set out in Exhibit T to the master settlement agreement, then that portion of KRS 131.600, 131.602, or Sections 2 to 15 of this Act shall not be valid.

SECTION 15. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated any provision of Sections 2 to 15 of this Act or any administrative regulation promulgated thereunder, the secretary may revoke or suspend the license of any stamping agent or distributor pursuant to KRS 138.195 and 138.205.

(2) Each stamp affixed in violation of Section 6 of this Act shall constitute a separate violation. The secretary may impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes sold or five thousand dollars ($5,000) upon a determination of a violation of Section 6 of this Act or any administrative regulations promulgated thereunder. The penalty shall be imposed in the manner provided by KRS 138.195 and 138.205.

Section 16. For the year 2003, the certifications by a tobacco product manufacturer described in Section 4 of this Act shall be due forty-five (45) calendar days after the effective date; and the directory described in Section 5 of this Act shall be published or made available within ninety (90) calendar days after such effective date.

Section 17. There is appropriated to the Revenue Cabinet, before making distributions from the tobacco settlement agreement fund pursuant to KRS 248.654, for each year of the 2002-2004 biennium, and notwithstanding the temporary emergency expenditures of state funds in Executive Order 2002-727, one hundred seventy-five thousand ($175,000) dollars to carry out the provisions of KRS 131.600, 131.602, and Sections 2 to 15 of this Act.

Section 18. Whereas the Master Settlement Agreement requires diligent enforcement of the existing statutes in order to protect Kentucky's receipt of funds under the Master Settlement Agreement, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 390** is as follows:

HB 390, AN ACT relating to the enforcement of the Tobacco Master Settlement Agreement, making an appropriation therefor and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

As used in this section and Sections 1 to 14 of this Act:

(1) "Brand family" means all styles of cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, lights, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, and unclassified acquirers as defined in KRS 138.130.

(3) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(4) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and

all amendments thereto.

(5) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers or cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138. 155.

(6) "Master settlement agreement" has the same meaning as in KRS 131.600.

(7) "Cigarette" has the same meaning as in KRS 131.600.

(8) "Secretary" means the secretary of the Revenue Cabinet.

(9) "Cabinet" means the Revenue Cabinet.

(10) "Tobacco product manufacturer" has the same meaning as in KRS 131.600.

(11) "Units sold" has the same meaning as in KRS 131.600.

(12) "Qualified escrow fund" has the same meaning as in KRS 131.600.

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that violations of KRS 131.600 and 131.602 threaten the integrity of the tobacco master settlement agreement, the fiscal soundness of the state, and the public health. The legislature finds that enacting procedural enhancements will aid enforcement of KRS 131.600 and 131.602 and thereby safeguard the master settlement agreement, the fiscal soundness of the state, and the public health.

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Prior to selling cigarettes in Kentucky, directly or through a distributor, retailer, or similar intermediary or intermediaries, every tobacco product manufacturer shall certify as true under penalty of perjury that, as of the date of certification, the tobacco product manufacturer is a participating manufacturer or nonparticipating manufacturer in full compliance with the provisions of KRS 131.602 and Section 9 of this Act. The tobacco product manufacturer shall execute and deliver the certification to the Attorney General on a form prescribed by the Attorney General no later than April 30 of each year.

(2) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update the list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General.

(3) A nonparticipating manufacturer shall include in its certification a complete list of all of its brand families and provide the following:

(a) A separate list of its brand families of cigarettes and the number of units sold for each brand family that were sold in Kentucky during the preceding calendar year; and

(b) A separate list of all of its brand families that have been sold in Kentucky at any time during the current calendar year including:

1. Indicating by an asterisk any brand family sold in Kentucky during the preceding calendar year that is no longer being sold in Kentucky as of the date of the certification; and

2. Identifying by name and address any other manufacturer of such brand families in the preceding or current calendar year.

(c) Verification that the nonparticipating manufacturer has provided the following:

1. The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established a qualified escrow fund required under KRS 131.602 and all regulations promulgated thereunder.

2. The account number of the qualified escrow fund and any subaccount number for the state of Kentucky.

3. The amount the nonparticipating manufacturer placed in the fund for cigarettes sold in Kentucky during the preceding calendar year, the date and amount of each deposit and evidence or verification, as may be deemed necessary, by the Attorney General to confirm the foregoing.

4. The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to KRS 131. 602 and all administrative regulations promulgated thereto.

(4) In the case of a nonparticipating manufacturer, the certification shall further certify:

(a) That the nonparticipating manufacturer is registered to do business in Kentucky or has appointed a resident agent for service of process and provided notice as required by Section 6 of this Act.

(b) That the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund pursuant to KRS 131.602 and has executed a qualified escrow agreement that governs the qualified escrow fund and that has been reviewed and approved by the Attorney General.

(c) That the nonparticipating manufacturer is in full compliance with KRS 131.602, Sections 1 to 14 of this Act, and any administrative regulations promulgated pursuant thereto.

(5) A tobacco product manufacturer may not include a brand family in its certification unless:

- *(a) In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement.*
- *(b) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes pursuant to KRS 131.602.*

(6) The nonparticipating manufacturer shall update all lists thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General.

(7) Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of KRS 131.602.

(8) The tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for a certification for a period of five (5) years.

SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General shall develop and make available to the cabinet for public inspection, to include publishing on the cabinet's website, a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to Section 3 of this Act and all brand families that are listed in the certifications. The listing shall be referred to as the "directory" and completed no later than July 1 of each certification year.

(2) The cabinet shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with Section 3 of this Act, unless the Attorney General has determined that such violation has been satisfactorily cured.

(3) Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the Attorney General determines in the case of a nonparticipating manufacturer that:

- *(a) Any escrow payment required pursuant to KRS 131.602 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or*
- *(b) Any outstanding final judgments, including interest thereon, for a violation of KRS 131.602 has not been fully satisfied for the brand family or the manufacturer.*

(4) Upon receipt of information from the Attorney General, the cabinet shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section and Sections 3 and 9 of this Act. The cabinet shall transmit, by electronic mail or other practicable means, notice to each stamping agent and distributor of any addition to or removal from the directory of any tobacco product manufacturer or brand family.

(5) Every stamping agent and distributor shall provide and update as necessary an electronic mail address to the cabinet for the purpose of receiving any notifications that may be required by this section and Sections 3, 7, 9, and 11 of this Act.

(6) Notwithstanding the provisions of subsections (2) and (3) of this section, in the case of any nonparticipating manufacturer who has established a qualified escrow account pursuant to KRS 131.602 that has been approved by the Attorney General, the Attorney General may not remove the manufacturer or its brand families from the directory unless the manufacturer has been given at least thirty (30) days' notice of the intended action. For the purposes of this section, notice shall be deemed sufficient if it is sent either electronically to an electronic-mail address or by first class to a postal mailing address, provided by the manufacturer in its most recent certification filed pursuant to Section 3. The notified nonparticipating manufacturer shall have thirty (30) days from receipt of the notice to comply. At the time that the Attorney General sends notice of its intent to remove the manufacturer from the directory the Attorney General shall post the notice in the directory.

SECTION 5. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any stamping agent or distributor to affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory.

SECTION 6. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of KRS 131.602 and Sections 1 to 14 of this Act, may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number and proof of the appointment and availability of the agent to the Attorney General.

(2) The nonparticipating manufacturer shall provide notice to the Attorney General thirty (30) calendar days prior to termination of the authority of an agent and shall further provide proof of the appointment of a new agent no less than five (5) calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the secretary and the Attorney General of the termination within five (5) calendar days and shall include proof of the appointment of a new agent.

(3) Any nonparticipating manufacturer whose products are sold in this state without appointing or designating an agent as required by this section shall be deemed to have appointed the Secretary of State as its agent and may be proceeded against in courts of this state by service of process upon the Secretary of State. The appointment of the Secretary of State as its agent shall not satisfy the condition precedent to having its brand families listed or retained in the directory.

(4) The Attorney General may by administrative regulation establish criteria for validating the appointment of an agent for the purposes of this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

On or before the twentieth day of each month, each stamping agent and distributor shall submit documentation that the secretary requires to facilitate compliance with this section, including but not limited to a list by brand family of the total number of cigarettes for which the stamping agent or distributor affixed stamps during the previous calendar month or otherwise paid the tax due for the cigarettes. The stamping agent or distributor shall maintain, and make available to the secretary, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the secretary for a period of five (5) years.

SECTION 8. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding KRS 131.190, the secretary is authorized to disclose to the Attorney General any information received under Sections 1 to 14 of this Act requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of Sections 1 to 14 of this Act. The Attorney General may share the information with other federal, state, or local agencies only for the purposes of enforcement of KRS 131.602 and Sections 1 to 14 of this Act or corresponding laws of other states. The Attorney General is further authorized to disclose to a tobacco product manufacturer any information that has been provided by a stamping agent under Sections 1 to 14 of this Act regarding the purchases from that manufacturer. All information provided by a stamping agent to the Attorney General shall be subject to public disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, and may be used in any enforcement action against the manufacturer by the Attorney General.

(2) In addition to the information required to be submitted pursuant to Sections 3, 6, 9, and 11 of this Act, the Attorney General or the secretary may require a stamping agent, distributor, or tobacco product manufacturer to submit any additional information including but not limited to samples of the packaging or labeling of each brand family as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with Sections 1 to 14 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The Attorney General may, at any time, require from the nonparticipating manufacturer proof from the financial institution in which the manufacturer has established a qualified escrow fund, for the purpose of compliance with KRS 131.600 and 131.602, of the amount of money in the fund, exclusive of interest, the amount and date of each deposit to the fund, and the amount and date of each withdrawal from the fund.

SECTION 10. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Any cigarettes that have been affixed with a stamp in this state in violation of Section 5 of this Act shall be deemed contraband and subject to seizure and forfeiture pursuant to KRS 138.165. Cigarettes seized in accordance with this section shall be destroyed and not resold.

(2) The Attorney General may seek an injunction to restrain a violation of Section 5 or 7 of this Act by a distributor or stamping agent and to compel the distributor or stamping agent to comply with Sections 5 and 7 of this Act. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees from any distributor or stamping agent found to be in violation of Section 5 or 7 of this Act.

(3) No stamping agent or distributor shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent knows are intended for distribution or sale in the state in violation of Section 5 of this Act. A violation of this section is a class A misdemeanor.

(4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state.

(5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated Section 5 of this Act or any regulation adopted pursuant to Sections 1 to 14 of this Act, the secretary may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of Sections 1 to 14 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a determination of the Attorney General to not include or to remove from the directory created

in Section 4 of this Act a brand family or tobacco product manufacturer may appeal the determination to the Franklin Circuit Court, or to the Circuit Court of the county in which the aggrieved party resides or conducts his place of business. For the purposes of a temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory may be deemed to constitute irreparable harm.

(2) No person shall be issued a license or granted a renewal of a license to act as a distributor or stamping agent unless the person is in compliance with the provisions of Sections 1 to 14 of this Act.

(3) The Attorney General or the cabinet may promulgate administrative regulations necessary to effect the purposes of Sections 1 to 14 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) In any action brought by the state to enforce Sections 1 to 14 of this Act, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees from any entity or person found to be in violation of Sections 1 to 14 of this Act.

(2) If a court determines that a person has violated Sections 1 to 14 of this Act, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be relinquished and paid to the State Treasurer for deposit in the Tobacco Control Special Fund, which is hereby created. Moneys in the fund shall be used for the sole purpose of enforcement of Sections 1 to 14 of this Act. Unless otherwise expressly provided, the remedies or penalties provided by Sections 1 to 14 of this Act are cumulative to each other and to the remedies or penalties available under all other laws of this state.

SECTION 13. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of KRS 131.600, 131.602, or Sections 1 to 14 of this Act causes KRS 131.600 and 131.602 to no longer constitute a model statute, as it is set out in Exhibit T to the master settlement agreement, then that portion of KRS 131.600, 131.602, or Sections 1 to 14 of this Act shall not be valid.

SECTION 14. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated any provision of Sections 1 to 14 of this Act or any administrative regulation promulgated thereunder, the secretary may revoke or suspend the license of any stamping agent or distributor pursuant to KRS 138.195 and 138.205.

(2) Each stamp affixed in violation of Section 5 of this Act shall constitute a separate violation. The secretary may impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes sold or five thousand dollars ($5,000) upon a determination of a violation of Section 5 of this Act or any administrative regulations promulgated thereunder. The penalty shall be imposed in the manner provided by KRS 138.195 and 138.205.

Section 15. For the year 2003, the certifications by a tobacco product manufacturer described in Section 3 of this Act shall be due forty-five (45) calendar days after the effective date; and the directory described in Section 4 of this Act shall be published or made available within ninety (90) calendar days after such effective date.

Section 16. There is appropriated to the Revenue Cabinet, before making distributions from the tobacco settlement agreement fund pursuant to KRS 248.654, for each year of the 2002-2004 biennium, and notwithstanding the temporary emergency expenditures of state funds in Executive Order 2002-727, one hundred seventy-five thousand ($175,000) dollars to carry out the provisions of KRS 131.600, 131.602, and Sections 1 to 14 of this Act.

Section 17. Whereas the General Assembly is dedicated to protecting Kentucky's receipt of funds under the Master Settlement Agreement, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Banking and Insurance reported **HB 8,** with Committee Substitute and Committee Amendment attached thereto, **HB 443, HB 454,** and **HB 498,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 8, AN ACT relating to physician medical malpractice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.801 is amended to read as follows:

(1) The General Assembly finds and declares that:

(a) An adequate and available workers' compensation ***medical malpractice*** insurance market does not exist for employers ***and physicians*** in the Commonwealth;

(b) Approximately fifty percent (50%) of the private workers' compensation insurance market resides in the residual market mechanism for workers' compensation;

(c) The voluntary insurance market has declined to the point that employers in the Commonwealth, who lack the financial capability to cover their own risk, have few insurance options except the residual market mechanism through which to maintain their statutorily-required workers' compensation coverage;

(d) A lack of an adequate market for workers' compensation ***and medical malpractice*** insurance threatens the economic welfare of the Commonwealth and its ability to create and maintain jobs for the citizens of Kentucky;

(e) Employers in the Commonwealth and other states are required by law to provide workers' compensation coverage to their employees and, therefore, the General Assembly has a responsibility to ensure employers an available and adequate insurance mechanism through which employers may discharge their statutory duty regarding workers' compensation;~~[and]~~

(f) State funds have historically and traditionally been a viable participant in the workers' compensation insurance market, that workers' compensation state funds exist in twenty-five (25) states, and that at least seven (7) states have created competitive state funds since 1983***;***

(g) Rising medical malpractice premiums, the shortage of reinsurance or restrictive terms of reinsurers, the withdrawal by medical malpractice insurers from the market, the increase in median malpractice jury awards, and other factors have created hardship on Kentucky physicians and made other states with more favorable medical malpractice insurance markets more attractive to some Kentucky physicians;

(h) Some Kentucky physicians face premiums for medical malpractice insurance that absorb a disproportionate amount of the physician's income and other physicians have been unable to obtain medical malpractice insurance or are faced with dropping risky procedures in order to obtain coverage; and

(i) It is in the interest of all Kentuckians that the state establish the Kentucky Physicians' Medical Malpractice Insurance Company to make certain physicians practicing medicine in Kentucky will be able to obtain affordable medical malpractice coverage and to provide a means to indemnify persons for professional negligence.

(2) Therefore, it is the intent of the General Assembly in creating the Employers' ***and Physicians'*** Mutual Insurance Authority to establish a self-supporting competitive state fund for the purpose of providing both a market of last resort for employers ***and physicians*** in the Commonwealth and another competitive source of insurance in the voluntary market through which employers may secure and maintain their workers' compensation coverage required under this chapter ***and physicians may secure and maintain medical malpractice insurance. The authority shall consist of the Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***.

Section 2. KRS 342.803 is amended to read as follows:

(1) The Kentucky Employers' ***and Physicians'*** Mutual Insurance Authority is created as a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to insure employers in the Commonwealth for workers' compensation, employers' liability insurance and coverage required by the Federal Coal Mine Health & Safety Act, the Jones Act, and the Longshore and Harbor Workers Act incidental to and written in conjunction with workers' compensation ***and to insure physicians in the Commonwealth for medical malpractice***. The General Assembly hereby recognizes that the operation of a competitive state fund is a unique activity for state government and that a corporate structure will best enable the authority to be managed in an entrepreneurial and business-like manner. The authority shall function in a manner similar to a governing board for a domestic mutual insurance company and shall be subject to the provisions of KRS Chapter 304 applicable to domestic mutual insurance companies, unless otherwise provided or exempted in KRS 342.801 to 342.843.

(2) Except for initial funding for start-up, the authority shall be entirely self-supporting.

(3) The authority or its liabilities shall not be deemed to constitute a debt or a liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(4) The authority shall provide coverage and issue policies as an insurer in the voluntary market and as an insurer of last resort.

Section 3. KRS 342.805 is amended to read as follows:

As used in KRS 342.801 to 342.843, unless the context otherwise requires:

(1) "Authority" means the Kentucky Employers' ***and Physicians'*** Mutual Insurance Authority ***which includes the Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***.

(2) "Board" means the board of directors of the authority.

(3) "Insurer of last resort" means an entity that provides workers' compensation coverage to any and all employers who comply with the provisions of KRS 342.801 to 342.843 for their business in and incidental to the Commonwealth ***and an entity that provides medical malpractice coverage to physicians in the Commonwealth***.

(4) "Manager" means the manager of the authority.

(5) ***"Physician" means a person who holds a valid and effective license as a physician issued by the State Board of Medical Licensure under KRS Chapter 311.***

(6) "Policyholder" means an employer ***or physician*** in the Commonwealth or an employer with an employee or employees in the Commonwealth who has secured and maintains workers' compensation coverage ***or medical malpractice coverage***

under this authority.

(7) "Professional negligence" means a negligent act or omission to act by a physician in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the physician is licensed and which are not within any restriction imposed by the State Board of Medical Licensure.

Section 4. KRS 342.807 is amended to read as follows:

(1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.

(2) The board shall consist of the:

(a) Secretary of the Finance and Administration Cabinet;

(b) Secretary of the Personnel Cabinet;

(c) Secretary of the Public Protection and Regulation Cabinet; and

(d) ***Ten (10)***[~~Seven (7)~~] at-large members appointed by the Governor, subject to confirmation by the Senate. ***At least two (2) of the members shall be physicians who hold valid and effective licenses as physicians issued by the State Board of Medical Licensure under KRS Chapter 311, and at least one (1) of the members shall be a person with expertise in medical malpractice insurance.***

(3) Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.

(4) No person shall serve on the board who:

(a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;

(b) Is not bondable;

(c) Is an employee, attorney, or contractor of a competing insurer providing workers' compensation insurance ***or medical malpractice insurance*** in the Commonwealth; or

(d) Is not a resident of this Commonwealth.

(5) In making the appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from ***licensed physicians and*** the major sectors of the economy and workforce in the Commonwealth.

Section 5. KRS 342.813 is amended to read as follows:

(1) Following a nationwide search, the board shall hire a manager, subject to Senate confirmation in accordance with KRS 11.160 who shall serve at the pleasure of the board. The manager shall be compensated at a level determined by the board.

(2) The manager shall have proven successful experience for a period of at least five (5) years as an executive at the general management level in insurance operations or in the management of a state fund for workers' compensation.

(3) The manager shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board. The duties of the manager include, but are not limited to:

(a) Administering all operations of the authority in accordance with the direction of the board;

(b) Recommending to the board an annual administrative budget covering the operations of the authority and, upon approval, submitting the administrative budget, financial status, and actuarial condition of the authority to the Governor and the General Assembly for their examination;

(c) Directing and controlling all expenditures of the approved budget;

(d) From time to time, upon the recommendation of an actuary, recommending to the board actuarially-sound rating plans, and the amount of dividends, if any, to be returned to policyholders;

(e) Investing the assets of the authority under the guidance of the board and in accordance with the provisions of Subtitle 7 of KRS Chapter 304;

(f) Recommending to the board and administering a system of personnel administration;

(g) Preparing and administering fiscal, payroll, accounting, data processing, and procurement procedures for the operation of the authority;

(h) Recommending to the board bylaws and uniform procedures for the management of the authority;

(i) Within the limitations of the budget, employing necessary staff personnel in accordance with the personnel policies of the board;

(j) Maintaining appropriate levels of property, casualty, and liability insurance as approved by the board to protect directors, officers, employees, and assets of the authority; and

(k) Contracting in accordance with KRS 342.811 for claims administration, safety services, legal defense, actuaries, medical providers, financial services, and other services which the manager elects to obtain outside employed staff.

(4) The manager may:

(a) Reinsure any risk or part of any risk;

(b) Cause to be inspected and audited the payrolls of ***workers' compensation*** policyholders or employers applying to the authority for insurance;

(c) Establish procedures for adjusting claims in accordance with this chapter; and

(d) Require policyholders to maintain an adequate deposit to provide security for periods of coverage for which premiums have not been paid.

(5) The manager shall give an official bond in an amount and with sureties approved by the board. The premium for the bond shall be paid by the authority.

(6) The provisions of KRS Chapters 18A and 64 shall not apply to the board, the manager, or the staff of the authority; however, the board shall adopt a system of personnel administration that includes benefits, grievance procedures, training and compensation.

Section 6. KRS 342.815 is amended to read as follows:

(1) The authority ***through its Kentucky Employers' Mutual Insurance Company*** may provide coverage for insurance, authorized in KRS 342.803, to any employer in the Commonwealth, and who tenders the required premium for coverage and comply with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.

(2) The authority through its Kentucky Physicians' Mutual Insurance Company may, beginning no sooner than December 1, 2003, provide coverage for medical malpractice insurance to any physician in the Commonwealth against liability of physicians for professional negligence if the physician tenders the required premium for coverage and complies with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.

(3) The authority shall keep the moneys, funds, and assets of the Kentucky Physicians' Mutual Insurance Company separate and apart from the moneys, funds, and assets of the Kentucky Employers' Mutual Insurance Company.

(4) The authority shall provide ***workers' compensation*** coverage to any employer ***and medical malpractice coverage to any physician*** who is unable to secure coverage in the voluntary market unless the employer ***or physician*** owes undisputed premiums to a previous workers' compensation ***or medical malpractice*** carrier or to a workers' compensation ***or medical malpractice*** residual market mechanism.

(5) The board shall appoint a person to serve as director of the Kentucky Employers' Mutual Insurance Company and a person to serve as director of the Kentucky Physicians' Mutual Insurance Company. The director of each company shall serve at the pleasure of the board, shall be compensated at a level determined by the board, and shall have authority granted by the board.

Section 7. KRS 342.817 is amended to read as follows:

(1) The authority, through its board and manager, shall establish separate rating plans, rates, and underwriting standards for different classes of risks for the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~].

(2) The rating plans, rates, and underwriting standards developed for the categories of risk shall be based on generally-accepted actuarial practices and procedures***, as to workers' compensation*** as set forth in the Statement of Principles Regarding Property and Casualty Ratemaking of the Casualty Actuarial Society, in accordance with the actuarial standards of practice and compliance guidelines of the Actuarial Standards Board. The rates shall be actuarially sound for both the voluntary market and the market of last resort and set at levels which are expected, in the aggregate, to be sufficient to pay all workers' compensation ***and medical malpractice*** claims incurred by the participating employer ***and physician*** risks and other permitted expenses of the authority.

(3) Multitiered premium or rating plans may be developed to provide workers' compensation ***and medical malpractice*** coverage to insureds in the Commonwealth.

(4) The manager shall develop statistical and other information as necessary to distinguish its writings in the voluntary market, and its writings as a market of last resort.

(5) The rates established by the authority for its policyholders shall be based only on Kentucky loss experience data, except that other loss experience data may be utilized as a supplement to Kentucky data if supplemental or additional data are necessary to establish statistical credibility of ***the medical malpractice loss experience data or*** an employment classification.

(6) Any and all rates, whether for the voluntary market or the market of last resort, established by the board are deemed competitive and shall be filed with the insurance commissioner in accordance with KRS Chapter 304 in the same manner as any other mutual insurance company writing workers' compensation ***or medical malpractice*** in the Commonwealth.

(7) Notwithstanding any provision of KRS Chapter 304 to the contrary, the surplus requirements for mutual insurance companies in the Commonwealth shall not apply to the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~] until the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company have***[~~authority has~~] been in operation for eighty-four (84) months, unless modified by the General Assembly. In addition to other reporting requirements in KRS 342.809

and 342.821, the authority shall report to the Labor and Industry Committee ***and the Banking and Insurance Committee*** of the General Assembly, no later than October 31 of each year, on the status of its efforts to build and maintain a surplus as required by KRS Chapter 304.

Section 8. KRS 342.819 is amended to read as follows:

On an annual basis, the board may declare a dividend ***separately for the Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company*** in accordance with Subtitle 24 of KRS Chapter 304, and distribute the same in the form of premium discounts, dividends, or a combination of dividends and discounts, at its discretion, if ***as to the company for which a dividend is declared***:

(1) The funding obtained pursuant to KRS 342.829 has been repaid in full;

(2) An independent actuarial report of the prior year's operations has been completed and reviewed by the board;

(3) The ***company***[~~authority~~] has met all expenses for administration and claims for the prior year; and

(4) Adequate reserves exist to pay all claims.

Section 9. KRS 342.821 is amended to read as follows:

On a quarterly basis, the manager shall prepare a report of assets and liabilities, which shall also include a statement of condition regarding the solvency of the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~] when awarded claims to date, and estimated initial claims not reported, are taken into account. This report shall be a public record and shall be provided to the board, the Governor, and the Legislative Research Commission.

Section 10. KRS 342.823 is amended to read as follows:

(1) In determining the solvency of the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~] in regard to maintaining adequate reserves, the commissioner of insurance, the independent accountant engaged for the annual audit, and the board, in exercising its prudent stewardship, shall not utilize the practice of "discounting" the funds to reduce future liabilities, except in conformity with standards or rules promulgated by the National Association of Insurance Commissioners.

(2) The authority shall file reports required by KRS 304.3-240.

(3) The authority shall file a report not later than March 31 of each year indicating the business done by the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~] during the previous year, including a balance sheet showing assets and liabilities at the beginning and conclusion of that year. The report shall be a public record and shall be delivered to the Governor, commissioner of insurance, Auditor of Public Accounts, Attorney General, and the co-chairs of the Legislative Research Commission. Additionally, a statement of solvency shall be prepared which shall include, at a minimum:

   (a) A summary of the prior quarterly reports required in KRS 342.821;

   (b) A management projection of the future solvency status for the authority; and

   (c) Any recommendations pertaining to the same.

(4) The authority shall not enter into any contract with a certified public accountant for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request for an audit. Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts declining to perform the audit shall specify the following:

   (a) That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts, Attorney General, and Legislative Research Commission; and

   (b) That the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers.

(5) If at any time the assets of the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~] are less than its liabilities, the board may levy an assessment on ***the company's***[~~its~~] policyholders in the manner provided in Subtitle 24 of KRS Chapter 304.

Section 11. KRS 342.829 is amended to read as follows:

(1) The authority shall not receive any direct state general fund appropriation.

(2) Initial funding for the ***Kentucky employers' mutual insurance*** authority ***as created in 1994*** shall be determined by the Governor and the secretary of the Finance and Administration Cabinet. Funding methods may include, but not be limited to, a loan from an existing state agency or agencies to the authority. The maximum amount borrowed from all state agencies shall not exceed seven million dollars ($7,000,000), to be repaid over a period not to exceed ten (10) years from the original loan date. The Governor shall have the authority to provide or secure additional funding necessary to maintain, for the first thirty-six (36) months of its operation, the surplus the Governor deems proper. The additional funding may come from any funds which may be expended directly by the Governor or from nonstate-agency sources and, regardless of source, shall be a loan to the authority. The rate of interest to be applied to the loan shall be one percent (1%) higher than the average for the long-term investment folder of the lending agency on the anniversary date of the original loan. The interest rate shall be adjusted annually on the anniversary date of the original loan. To minimize cash requirements and interest obligations, the loan shall be executed as a line of credit against the lending agency, so that only those funds

actually required for initial start-up operations, including the establishment of a surplus and reinsurance expenses, are drawn down on an "as needed" basis.

(3) ***Initial funding for the Kentucky Physicians' Mutual Insurance Company may include a loan from the reserves of the Kentucky Employers' Mutual Insurance Company in an amount and according to the terms established by the board. The board may authorize other means of initial funding under authority provided the board in KRS 842.801 to 842.843, including an annual or one-time surcharge levied on physicians insured by the company in the amount and according to the terms established by the board.***

(4) Any executive branch agency of the Commonwealth and any public corporation created by the Commonwealth, any statute to the contrary notwithstanding, may lend money to the authority subject to the terms and conditions of this section, and any loan made pursuant to this section shall not be construed as a breach or violation of fiduciary duties contained in KRS Chapter 386.

(5)[~~(4)~~] Funds collected by the authority shall not:

(a) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(b) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for repayment of the loan authorized in subsections (2)***,***[~~ and~~] (3)***, and (4)*** of this section; or

(c) Be expended for any other purposes than as authorized by KRS 342.801 to 342.843 and KRS 304.13-340.

Section 12. KRS 342.833 is amended to read as follows:

(1) The manager shall formulate, implement, and monitor a workplace safety program for all policyholders ***of the Kentucky Employers' Mutual Insurance Company***.

(2) The manager shall develop a written workplace accident and injury reduction plan that promotes safe working conditions and which is based upon clearly stated goals and objectives. The manager or employees of the authority shall have reasonable access to the premises of any ***Kentucky Employers' Mutual Insurance Company*** policyholder or applicant during regular working hours.

(3) The manager or board shall refuse to insure or shall terminate the insurance of any ***Kentucky Employers' Mutual Insurance Company*** policyholder who refuses to permit on-site examinations or who disregards or fails to comply with workplace safety goals and objectives required by the authority as conditions for obtaining and maintaining coverage.

Section 13. KRS 342.839 is amended to read as follows:

(1) Notwithstanding any provision of KRS Chapter 304 to the contrary, the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~] shall be exempt from participation, and shall not join, contribute financially to, nor be entitled to the protection of, any plan, pool, association, guarantee, or insolvency fund authorized or required by KRS Chapter 304.

(2) Except as provided in subsection (1) of this section, the ***Kentucky Employers' Mutual Insurance Company***[~~authority~~] shall be subject to the same assessments applicable to workers' compensation premiums as domestic mutual insurance companies licensed to do business in the Commonwealth and governed by the provisions of Subtitle 24 of KRS Chapter 304.

(3) Notwithstanding the provisions of Subtitle 24 of KRS Chapter 304 or any other provisions of the Kentucky Revised Statutes to the contrary, the minimum number of directors and procedures required for incorporating a mutual insurance company, requirements relating to the name of a mutual insurance company, and any licensing requirements applicable to mutual insurance companies shall not apply to the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~].

(4) The ***Kentucky Employers' Mutual Insurance Company***[~~authority~~] shall be considered an insurer for purposes of KRS 342.122 and other provisions of this chapter.

(5) Notwithstanding any provision of KRS Chapter 304 to the contrary the ***Kentucky Employers' Mutual Insurance Company and the Kentucky Physicians' Mutual Insurance Company***[~~authority~~] shall not be subject to the provisions of Subtitle 33 or other provisions of KRS Chapter 304 that relate to the liquidation, rehabilitation, dissolution, or sale of any insurance company.

SECTION 14. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 14 to 22 of this Act, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of the Department of Insurance;

(2) "Malpractice" means a tort or breach of contract based on physician services that were provided, or that should have been provided, by a physician to a patient;

(3) "Patient" means an individual who receives or should have received health care from a physician, under a contract, express or implied, and includes a person having a claim of any kind, whether derivative or otherwise, as a result of alleged malpractice on the part of a physician. Derivative claims include the claim of a parent or parents, guardian, trustee, child, relative, attorney, or any other representative of the patient including claims for loss of services, loss of consortium, expenses, and other similar claims; and

(4) "Physician" means a person who holds a valid and effective license as a physician issued by the State Board of Medical Licensure under KRS Chapter 311.

SECTION 15. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Sections 14 to 22 of this Act provide for establishment of medical review panels to review proposed malpractice complaints against physicians.

(2) Not earlier than twenty (20) days after the filing of a proposed complaint, either party may request the formation of a medical review panel by serving a request by registered or certified mail upon all parties and the commissioner.

SECTION 16. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) (a) A medical review panel consists of one (1) attorney and three (3) physicians.

(b) The attorney member of the medical review panel shall act as chair of the panel and in an advisory capacity, but may not vote.

(c) The chair shall expedite the selection of the other panel members, convene the panel, and expedite the panel's review of the proposed complaint. The chair may establish a reasonable schedule for submission of evidence to the medical review panel but must allow sufficient time for the parties to make full and adequate presentation of related facts and authorities.

(2) A medical review panel shall be selected in the following manner:

(a) Within fifteen (15) days after the filing of a request for formation of a medical review panel under Section 15 of this Act, the parties shall select a panel chair by agreement. If no agreement on a panel chair can be reached, either party may request the clerk of the Circuit Court to draw at random a list of five (5) names of attorneys who:

1. Are qualified to practice;

2. Are presently on the rolls of the Circuit Court; and

3. Maintain offices in the county of venue designated in the proposed complaint or in a contiguous county.

(b) Before selecting the random list, the clerk shall collect a twenty-five dollar ($25) medical review panel selection fee from the party making the request for the formation of the random list.

(c) The clerk shall notify the parties, and the parties shall then strike names alternately with the plaintiff striking first until one (1) name remains. The remaining attorney shall be the chair of the panel.

(d) After the striking, the plaintiff shall notify the chair and all other parties of the name of the chair.

(e) If a party does not strike a name within five (5) days after receiving notice from the clerk:

1. The opposing party shall, in writing, request the clerk to strike for the party; and

2. The clerk shall strike for that party.

(f) When one (1) name remains, the clerk shall within five (5) days notify the chair and all other parties of the name of the chair.

(g) Within fifteen (15) days after being notified by the clerk of being selected as chair, the chair shall:

1. Send a written acknowledgment of appointment to the clerk; or

2. Show good cause for relief from serving as provided in subsection (2) of Section 17 of this Act.

(3) All physicians in Kentucky, whether in the teaching profession or otherwise, who hold a license to practice in their profession shall be available for selection as members of the medical review panel.

(4) Each party to the action has the right to select one (1) physician, and upon selection, the two (2) physicians thus selected shall select the third panelist.

(5) If there are multiple plaintiffs or defendants, only one (1) physician shall be selected per side. The plaintiff, whether single or multiple, has the right to select one (1) physician and the defendant, whether single or multiple, has the right to select one (1) physician.

(6) If the individual defendant is a physician who specializes in a limited area, two (2) of the panelists selected must be physicians who specialize in the same area as the defendant.

(7) Within fifteen (15) days after the chair is selected, both parties shall select a physician member and the parties shall notify the other party and the chair of their selection. If a party fails to make a selection within the time provided, the chair shall make the selection and notify both parties. Within fifteen (15) days after their selection, the members shall select the third member within the time provided and notify the chair and the parties. If the physician members fail to make a selection, the chair shall make the selection and notify both parties.

(8) Within ten (10) days after the selection of a panel member, written challenge without cause may be made to the panel member. Upon challenge or excuse, the party whose appointee was challenged or dismissed shall select another panelist. If the challenged or dismissed panel member was selected by the other two (2) panel members, the panel members shall make a new selection. If two (2) such challenges are made and submitted, the chair shall within ten (10) days appoint a panel consisting of three (3) qualified panelists and each side shall, within ten (10) days after the

appointment, strike one (1) panelist. The party whose appointment was challenged shall strike last, and the remaining member shall serve.

SECTION 17. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) When a medical review panel is formed, the chair shall within five (5) days notify the commissioner and the parties by registered or certified mail of the following:

(a) The names and addresses of the panel members; and

(b) The date on which the last member was selected.

(2) (a) A member of a medical review panel who is selected under Sections 14 to 22 of this Act shall serve unless:

1. The parties by agreement excuse the panelist; or

2. The panelist is excused as provided in this section for good cause shown.

(b) To show good cause for relief from serving, the attorney selected as chair of a medical review panel must serve an affidavit upon the clerk of the circuit court. The affidavit must set out the facts showing that service would constitute an unreasonable burden or undue hardship. The clerk may excuse the attorney from serving. The attorney shall notify all parties, who shall then select a new chair as provided in subsection (2) of Section 16 of this Act.

(c) To show good cause for relief from serving, a physician member of a medical review panel must serve an affidavit upon the panel chair. The affidavit must set out the facts showing that service would constitute an unreasonable burden or undue hardship. The chair may excuse the member from serving and notify all parties.

(3) A party, attorney, or panelist who fails to act as required by Sections 14 to 22 of this Act without good cause shown is subject to mandate or appropriate sanctions upon application to the court designated in the proposed complaint as having jurisdiction.

(4) (a) The commissioner may remove the chair of the panel if the commissioner determines that the chair is not fulfilling the duties imposed upon the chair by Sections 14 to 22 of this Act.

(b) If the chair is removed under this section, a new chair shall be selected under Sections 14 to 22 of this Act.

(5) (a) The chair may remove a member of the panel if the chair determines that the member is not fulfilling the duties imposed upon the panel members by Sections 14 to 22 of this Act.

(b) If a member is removed under this section, a new member shall be selected under Sections 14 to 22 of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The evidence in written form to be considered by the medical review panel shall be promptly submitted by the respective parties.

(2) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, and any other form of evidence allowable by the medical review panel.

(3) Depositions of parties and witnesses may be taken before the convening of the panel.

(4) The chair shall ensure that before the panel gives its expert opinion under Section 20 of this Act, each panel member has the opportunity to review every item of evidence submitted by the parties.

(5) Before considering any evidence or deliberating with other panel members, each member of the medical review panel shall take an oath in writing on a form provided by the panel chair, which must read as follows: "I (swear) (affirm) under penalties of perjury that I will well and truly consider the evidence submitted by the parties; that I will render my opinion without bias, based upon the evidence submitted by the parties, and that I have not and will not communicate with any party or representative of a party before rendering my opinion, except as authorized by law."

SECTION 19. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Neither a party, a party's agent, a party's attorney, nor a party's insurance carrier may communicate with any member of the panel, except as authorized by law, before the giving of the panel's expert opinion under Section 20 of this Act.

(2) The chair of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in Section 20 of this Act.

(3) (a) Either party, after submission of all evidence and upon ten (10) days notice to the other side, has the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of the panel's report.

(b) The chair of the panel shall preside at all meetings. Meetings shall be informal.

(4) (a) The panel has the right and duty to request all necessary information;

(b) The panel may consult with medical authorities;

(c) The panel may examine reports of other health care providers necessary to fully inform the panel regarding the issue to be decided; and

(d) Both parties shall have full access to any material submitted to the panel.

(5) A panelist has absolute immunity from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by Sections 14 to 22 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The panel has the sole duty to express the panel's expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint.

(2) After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty (30) days, give one (1) or more of the following expert opinions, which must be in writing and signed by the panelists:

(a) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(b) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(c) There is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court or jury.

(d) The conduct complained of was or was not a factor of the resultant damages. If so, whether the plaintiff suffered:

1. Any disability and the extent and duration of the disability; and

2. Any permanent impairment and the percentage of the impairment.

(3) A report of the expert opinion reached by the medical review panel is admissible as evidence in any action subsequently brought by the claimant in a court of law. However, the expert opinion is not conclusive, and either party, at the party's cost, has the right to call any member of the medical review panel as a witness. If called, a witness shall appear and testify.

(4) The chair shall submit a copy of the panel's report to:

(a) The commissioner; and

(b) All parties and attorneys;

by registered or certified mail within five (5) days after the panel gives its opinion.

SECTION 21. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The panel shall give its expert opinion within one hundred eighty (180) days after the selection of the last member of the initial panel. However, if:

(a) The chair of the panel is removed under subsection (4) of Section 17 of this Act, another member of the panel is removed under subsection (5) of Section 17 of this Act, or any member of the panel, including the chair, is removed by a court order; and

(b) A new member is selected to replace the removed member more than ninety (90) days after the last member of the initial panel is selected;

the panel has ninety (90) days after the selection of the new member to give an expert opinion.

(2) If the panel has not given an opinion within the time allowed under subsection (1) of this section, the panel shall submit a report to the commissioner, stating the reasons for the delay.

SECTION 22. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Each physician member of the medical review panel is entitled to be paid:

(a) Up to three hundred fifty dollars ($350) for all work performed as a member of the panel, exclusive of time involved if called as a witness to testify in court; and

(b) Reasonable travel expense.

(2) The chair of the panel is entitled to be paid:

(a) At the rate of two hundred fifty dollars ($250) per diem, not to exceed two thousand dollars ($2,000); and

(b) Reasonable travel expenses.

(3) The chair shall keep an accurate record of the time and expenses of all the members of the panel. The record shall be submitted to the parties for payment with the panel's report.

(4) Fees of the panel, including travel expenses and other expenses of the review, shall be paid by the side in whose favor the majority opinion is written. If there is no majority opinion, each side shall pay fifty percent (50%) of the cost.

Section 23. Sections 1 to 13 of this Act takes effect August 1, 2003.

The Committee Substitute to **HB 8** is as follows:

HB 8, AN ACT relating to physician medical malpractice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 305 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) Rising medical malpractice premiums, the shortage of reinsurance or restrictive terms of reinsurers, the withdrawal by medical malpractice insurers from the market, the increase in median malpractice jury awards, and other factors have created hardship on Kentucky physicians and made other states with more favorable medical malpractice insurance markets more attractive to some Kentucky physicians;

(2) Some Kentucky physicians face premiums for medical malpractice insurance that absorb a disproportionate amount of the physician's income and other physicians have been unable to obtain medical malpractice insurance or are faced with dropping risky procedures in order to obtain coverage; and

(3) It is in the interest of all Kentuckians that the state establish the Kentucky Providers' Mutual Insurance Authority to make certain physicians practicing medicine in Kentucky will be able to obtain affordable medical malpractice coverage and to provide a means to indemnify persons for professional negligence.

SECTION 2. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Providers' Mutual Insurance Authority is created as a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to insure physicians, and other licensed health care providers as determined by the authority, in the Commonwealth for medical professional liability insurance. The General Assembly hereby recognizes that the operation of a competitive state fund is a unique activity for state government and that a corporate structure will best enable the authority to be managed in an entrepreneurial and businesslike manner. The authority shall function in a manner similar to a governing board for a domestic mutual insurance company and shall be subject to the provisions of KRS Chapter 304 applicable to domestic mutual insurance companies, unless otherwise provided or exempted in Sections 1 to 23 of this Act.

(2) Except for initial funding for start-up, the authority shall be entirely self-supporting.

(3) The authority or its liabilities shall not be deemed to constitute a debt or a liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(4) The authority shall provide coverage and issue policies as an insurer in the voluntary market and as an insurer of last resort.

SECTION 3. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Authority" means the Kentucky Providers' Mutual Insurance Authority;

(2) "Board" means the board of directors of the authority;

(3) "Health care provider" means:

- *(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;*
- *(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;*
- *(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;*
- *(d) Pharmacists as defined pursuant to KRS Chapter 315;*
- *(e) Chiropractors licensed under KRS Chapter 312;*
- *(f) Dentists licensed under KRS Chapter 313;*
- *(g) Optometrists licensed under KRS Chapter 320;*
- *(h) Physician assistants regulated under KRS Chapter 311;*
- *(i) Psychologists licensed under KRS Chapter 319;*
- *(j) Physical therapists licensed under KRS Chapter 327;*
- *(k) Occupational therapists licensed under KRS Chapter 319A; and*
- *(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees;*

(4) "Policyholder" means an employer or health care provider in the Commonwealth or an employer with an employee or employees in the Commonwealth who has secured and maintains workers' compensation coverage or medical malpractice coverage under this authority; and

(5) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the health care provider is licensed and are not within any

restriction imposed by the health care provider's licensing board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.

(2) The board shall consist of:

- *(a) The board of Kentucky Employers' Mutual Insurance Authority under KRS 342.807; and*
- *(b) Three (3) at-large members appointed by the Governor subject to confirmation by the Senate. Two (2) members shall be licensed health care providers, and one (1) member shall be a person with expertise in medical malpractice insurance.*

(3) Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.

(4) No person shall serve on the board who:

- *(a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;*
- *(b) Is not bondable;*
- *(c) Is an employee, attorney, or contractor of a competing insurer providing medical malpractice insurance in the Commonwealth; or*
- *(d) Is not a resident of this Commonwealth.*

(5) In making appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from licensed physicians, other health care providers, and the health care industry in the Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chair and other officers it deems necessary from its members. All members of the current Kentucky Employers' Mutual Insurance Authority board shall serve their current terms. The Governor shall make the initial appointment of the three (3) new members as follows: One (1) of the health care providers and the insurance expert shall be appointed to terms that expire December 31, 2007, and the remaining health care provider shall be appointed to a term that expires December 31, 2005. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular legislative session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) Seven (7) members shall constitute a quorum. The board shall meet at least quarterly and at such other times as the chair may determine. The board shall also meet upon the call of four (4) or more of the members of the board.

(4) Each member, except the secretaries of the cabinet and the Kentucky Employers' Mutual Insurance Authority Board members, shall be compensated twelve thousand dollars ($12,000) annually. In addition, the members of the board, except the secretaries of the cabinets, shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Finance and Administration Cabinet for state employees.

(5) A board member, except the secretaries of the cabinets, may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws adopted by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to KRS Chapter 304, with all of the general corporate powers incident thereto. The powers and duties of the board shall include but not be limited to the power to:

(1) Sue;

(2) Hire a manager to administer the authority in accordance with the policies and procedures of the board;

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4) Adopt a corporate seal;

(5) Develop and file with the Legislative Research Commission bylaws for the operation of the authority;

(6) Examine and adopt an annual operating budget for the authority;

(7) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(8) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds;

(9) Develop policy for the operation of the authority consistent with its mission and fiduciary responsibility;

(10) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A, including competitive bidding procedures;

(11) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(12) Pursuant to KRS Chapter 304, determine and establish an actuarially sound price for insurance offered by the authority, including any dividends or deviations;

(13) Pursuant to Section 12 of this Act, assess policyholders;

(14) Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;

(15) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board;

(16) Conduct annually an independent audit of the financial condition of the authority; and

(17) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority, to fulfill the purpose of Sections 1 to 23 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) Following a nationwide search, the board shall hire a manager, subject to Senate confirmation in accordance with KRS 11.160, who shall serve at the pleasure of the board. The manager shall be compensated at a level determined by the board.

(2) The manager shall have proven successful experience for a period of at least five (5) years as an executive at the general management level in insurance operations with expertise in medical malpractice or in the management of a state fund for medical malpractice.

(3) The manager shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board. The duties of the manager include, but are not limited to:

(a) Administering all operations of the authority in accordance with the direction of the board;

(b) Recommending to the board an annual administrative budget covering the operations of the authority and, upon approval, submitting the administrative budget, financial status, and actuarial condition of the authority to the Governor and the General Assembly for their examination;

(c) Directing and controlling all expenditures of the approved budget;

(d) From time to time, upon the recommendation of an actuary, recommending to the board actuarially sound rating plans, and the amount of dividends, if any, to be returned to policyholders;

(e) Investing the assets of the authority under the guidance of the board and in accordance with the provisions of Subtitle 7 of KRS Chapter 304;

(f) Recommending to the board and administering a system of personnel administration;

(g) Preparing and administering fiscal, payroll, accounting, data processing, and procurement procedures for the operation of the authority;

(h) Recommending to the board bylaws and uniform procedures for the management of the authority;

(i) Within the limitations of the budget, employing necessary staff personnel in accordance with the personnel policies of the board;

(j) Maintaining appropriate levels of property, casualty, and liability insurance as approved by the board to protect directors, officers, employees, and assets of the authority; and

(k) Contracting for claims administration, legal defense, actuaries, financial services, and other services which the manager elects to obtain outside employed staff.

(4) The manager may:

(a) Reinsure any risk or part of any risk;

(b) Establish procedures for adjusting claims in accordance with KRS Chapter 304; and

(c) Require policyholders to maintain an adequate deposit to provide security for periods of coverage for which premiums have not been paid.

(5) The manager shall give an official bond in an amount and with sureties approved by the board. The premium for the bond shall be paid by the authority.

(6) The provisions of KRS Chapters 18A and 64 shall not apply to the board, the manager, or the staff of the authority; however, the board shall adopt a system of personnel administration that includes benefits, grievance procedures, training, and compensation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The authority may provide coverage for medical malpractice insurance to any health care provider as defined in Sections 1 to 23 of this Act who tenders the required premium for coverage, and who complies with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.

(2) The authority shall provide coverage to any health care provider, as defined in Section 3 of this Act, who is unable to secure coverage in the voluntary market unless the health care provider owes undisputed premiums to a previous medical malpractice carrier or to a medical malpractice residual market mechanism.

SECTION 9. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The authority, through its board and manager, shall establish separate rating plans, rates, and underwriting standards for different classes of risks for the authority.

(2) The rating plans, rates, and underwriting standards developed for the categories of risk shall be based on generally accepted actuarial practices and procedures as set forth in the Statement of Principles Regarding Property and Casualty Ratemaking of the Casualty Actuarial Society, in accordance with the actuarial standards of practice and compliance guidelines of the Actuarial Standards Board. The rates shall be actuarially sound for both the voluntary market and the market of last resort and set at levels which are expected, in the aggregate, to be sufficient to pay all medical malpractice claims incurred by the participating physician or other health care provider risks and other permitted expenses of the authority.

(3) Multitiered premium or rating plans may be developed to provide medical malpractice coverage to insureds in the Commonwealth.

(4) The manager shall develop statistical and other information as necessary to distinguish its writings in the voluntary market, and its writings as a market of last resort.

(5) The rates established by the authority for its policyholders shall be based only on Kentucky loss experience data, except that other loss experience data may be utilized as a supplement to Kentucky data if supplemental or additional data are necessary to establish statistical credibility of the medical malpractice loss experience data or an employment classification.

(6) Any and all rates, whether for the voluntary market or the market of last resort, established by the board are deemed competitive and shall be filed with the insurance commissioner in accordance with KRS Chapter 304 in the same manner as any other mutual insurance company writing medical malpractice coverage in the Commonwealth.

(7) Notwithstanding any provision of KRS Chapter 304 to the contrary, the surplus requirements for mutual insurance companies in the Commonwealth shall not apply to the authority until the authority has been in operation for eighty-four (84) months, unless modified by the General Assembly. In addition to other reporting requirements of Sections 1 to 23 of this Act, the authority shall report to the Interim Joint Committee on Banking and Insurance of the General Assembly, no later than October 31 of each year, on the status of its efforts to build and maintain a surplus as required by KRS Chapter 304.

SECTION 10. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

On an annual basis, the board may declare a dividend in accordance with Subtitle 24 of KRS Chapter 304, and distribute the same in the form of premium discounts, dividends, or a combination of dividends and discounts, at its discretion, if:

(1) Any funding obtained pursuant to a loan from Kentucky Employers' Mutual Insurance Authority has been repaid in full;

(2) An independent actuarial report of the prior year's operations has been completed and reviewed by the board;

(3) The authority has met all expenses for administration and claims for the prior year; and

(4) Adequate reserves exist to pay all claims.

SECTION 11. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

On a quarterly basis, the manager shall prepare a report of assets and liabilities, which shall also include a statement of condition regarding the solvency of the authority when awarded claims to date, and estimated initial claims not reported, are taken into account. This report shall be a public record and shall be provided to the board, the Governor, and the Legislative Research Commission.

SECTION 12. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) In determining the solvency of the authority in regard to maintaining adequate reserves, the commissioner of insurance, the independent accountant engaged for the annual audit, and the board, in exercising its prudent stewardship, shall not utilize the practice of "discounting" the funds to reduce future liabilities, except in conformity with standards or rules promulgated by the National Association of Insurance Commissioners.

(2) The authority shall file reports required by KRS 304.3-240.

(3) The authority shall file a report not later than March 31 of each year indicating the business done by the authority during the previous year, including a balance sheet showing assets and liabilities at the beginning and conclusion of

that year. The report shall be a public record and shall be delivered to the Governor, commissioner of insurance, Auditor of Public Accounts, Attorney General, and the co-chairs of the Legislative Research Commission. Additionally, a statement of solvency shall be prepared which shall include, at a minimum:

(a) A summary of the prior quarterly reports required in Section 11 of this Act;

(b) A management projection of the future solvency status for the authority; and

(c) Any recommendations pertaining to the same.

(4) The authority shall not enter into any contract with a certified public accountant for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request for an audit. Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts declining to perform the audit shall specify the following:

(a) That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts, Attorney General, and Legislative Research Commission; and

(b) That the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers.

(5) If at any time the assets of the authority are less than its liabilities, the board may levy an assessment on its policyholders in the manner provided in Subtitle 24 of KRS Chapter 304.

SECTION 13. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

The board shall formulate and adopt an investment policy that safeguards the value of all assets and maximizes investment potential commensurate with risk and liquidity restrictions, and shall supervise the investment activities of the authority subject to the limitations on domestic insurance companies under KRS Chapter 304. Notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the authority may utilize the investment expertise and advice of the Office of Financial Management in the Finance and Administration Cabinet. The authority shall also retain an independent investment counsel or managers who shall be subject to standards applicable to fiduciaries responsible for safeguarding assets of a corporation.

SECTION 14. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

The manager shall compile and maintain statistical and actuarial data related to the determination of proper premium rate levels, the incidence of acts of medical malpractice, costs related to those acts, and other data necessary for the development of fair and equitable rates and rating plans.

SECTION 15. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall not receive any direct state general fund appropriation.

(2) Upon request of the board, initial funding may be determined by the Governor and the secretary of the Finance and Administration Cabinet. Funding methods may include, but not be limited to, a loan from Kentucky Employers' Mutual Insurance Authority to the authority. The maximum amount borrowed from Kentucky Employers' Mutual Insurance Authority shall not exceed five million dollars ($5,000,000), to be repaid over a period not to exceed seven (7) years from the original loan date. The rate of interest to be applied to the loan shall be one percent (1%) higher than the average annual yield of Kentucky Employers' Mutual Insurance Authority's investment portfolio. The interest rate shall be adjusted annually on the anniversary date of the original loan. The Governor shall have the authority to provide or secure additional funding necessary to maintain, for the first thirty-six (36) months of its operation, the surplus the Governor deems proper. The additional funding may come from any funds which may be expended directly by the Governor or from nonstate-agency sources and, regardless of source, shall be a loan to the authority upon terms as determined by the Governor.

(3) Any executive branch agency of the Commonwealth and any public corporation created by the Commonwealth, any statute to the contrary notwithstanding, may lend money to the authority subject to the terms and conditions of this section, and any loan made pursuant to this section shall not be construed as a breach or violation of fiduciary duties contained in KRS Chapter 386.

(4) The board may authorize other means of initial funding under authority provided by the board in Sections 1 to 23 of this Act, including an annual or one-time surcharge levied on physicians insured by the authority in the amount and according to the terms established by the board.

(5) Funds collected by the authority shall not:

(a) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(b) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for repayment of the loan authorized in subsections (2) and (3) of this section; or

(c) Be expended for any other purposes than as authorized by Sections 1 to 23 of this Act.

(6) Funding methods for the creation, continued development, and operation of the authority may also include issuance of revenue bonds from time to time, in a principal amount outstanding not to exceed forty million dollars ($40,000,000) at any given time, payable solely from premiums received from insurance policies and other revenues generated by the authority, subject to the following provisions:

(a) The authority may issue bonds to refund other bonds issued pursuant to this section;

(b) The bonds shall have a maturity of no more than ten (10) years from the date of issuance. The authority shall determine all other terms, covenants, and conditions of the bonds, except that no bonds may be redeemed prior to maturity unless the authority has established adequate reserves for the risks it has insured;

(c) The bonds shall be executed with the manual or facsimile signature of the manager of the chair of the board and attested by another member of the board. The bonds may bear the seal, if any, of the authority;

(d) The proceeds of the bonds and the earnings on those proceeds shall be used by the authority for the development and operation of the authority, to pay expenses incurred in the preparation, issuance, and sale of the bonds, and to pay any obligations relating to the bonds and the proceeds of the bonds under the United States Internal Revenue Code;

(e) The bonds may be sold at a public sale or a private sale. If the bonds are sold at a public sale, the notice of sale and other procedures for the sale shall be determined by the authority or its designated representative.

(f) This section is full authority for the issuance and sale of bonds and the bonds shall not be invalid for any irregularity or defect in the proceedings for their issuance and sale and shall be incontestable in the hands of bona fide purchasers or holders of the bonds for value; and

(g) Approval by the secretary of the Finance and Administration Cabinet shall be required for any issuance of bonds under this section.

SECTION 16. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) An agent selling, soliciting, or negotiating insurance contracts of the authority shall be licensed as an agent with a casualty line of authority in accordance with the provisions of Subtitle 9 of KRS Chapter 304 regulating all aspects of agent licenses.

(2) An agent selling, soliciting or negotiating insurance contracts of the authority shall be appointed by the authority in accordance with the provisions of Subtitle 9 of KRS Chapter 304 regulating all aspects of agent appointments.

(3) An adjuster investigating, negotiating or settling claims of the authority shall be licensed as an adjuster in accordance with the provisions of Subtitle 9 of KRS Chapter 304 regulating all aspects of adjuster licenses.

(4) Commissions paid for marketing or sales by an insurance agent shall be determined by the manager, subject to the approval of the board.

SECTION 17. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

No member of the board, the manager, or any employee of the authority shall be held personally liable for any act performed or for any contract or other obligation entered into or undertaken in an official capacity, in connection with the administration, management, or conduct of the authority, its funds and other assets, its business, or other related affairs.

SECTION 18. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The board, manager, and employees shall comply with the code of ethics applicable to the Executive Branch pursuant to KRS Chapter 11A.

(2) In addition to compliance with the code of ethics required in subsection (1) of this section, no member of the board shall have any direct or indirect interest in any undertaking that puts the member's personal interest in conflict with that of the authority. A personal interest shall include, but not be limited to, an interest in a major procurement.

SECTION 19. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of KRS Chapter 304 to the contrary, the authority shall be exempt from participation, and shall not join, contribute financially to, nor be entitled to the protection of, any plan, pool, association, guarantee, or insolvency fund authorized or required by KRS Chapter 304.

(2) Except as provided in subsection (1) of this section, the authority shall be subject to the same assessments applicable to medical malpractice premiums as domestic mutual insurance companies licensed to do business in the Commonwealth and governed by the provisions of Subtitle 24 of KRS Chapter 304.

(3) Notwithstanding the provisions of Subtitle 24 of KRS Chapter 304 or any other provisions of the Kentucky Revised Statutes to the contrary, the minimum number of directors and procedures required for incorporating a mutual insurance company, requirements relating to the name of a mutual insurance company, and any licensing requirements applicable to mutual insurance companies shall not apply to the authority.

(4) The authority shall not be subject to the provisions of Subtitle 33 or other provisions of KRS Chapter 304 that relate to the liquidation, rehabilitation, dissolution, or sale of any insurance company.

SECTION 20. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The board shall comply with KRS Chapter 61 in regard to open meetings and open records in the conduct of ordinary business. In addition to the exemptions listed in KRS Chapter 61, proceedings to discuss rates, proposed rates, or anything that relates to rates if that discussion would jeopardize the competitiveness of the authority may be closed, as well as proceedings which would provide an unfair competitive advantage to private sector competitors providing medical malpractice coverage in the Commonwealth.

(2) All records of the authority shall be deemed open records and subject to public inspection, unless:

(a) The record is excluded from inspection under KRS Chapter 61;

(b) The record includes information that would provide an unfair competitive advantage to private sector competitors providing medical malpractice coverage in the Commonwealth;

(c) In addition to the exemption provided by KRS 61.878(1)(c)1., the record is generated by the authority, generally recognized as confidential or proprietary, and if openly disclosed would permit an unfair commercial advantage to competitors of the authority or other entity to which the record relates; or

(d) The record relates to a fraud investigation conducted by the authority and does not become evidence in a criminal or civil action.

SECTION 21. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General and the Auditor of Public Accounts shall monitor the operations of the authority.

(2) Either the Attorney General or the Auditor of Public Accounts, or both, may make at any time any examinations or investigations, jointly or severally, of the operations, practices, management, or other matters relating to the authority as they deem necessary. Either of them shall have the power to subpoena witnesses and records for these purposes, and otherwise to compel the giving of evidence for any matter under study. The Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them may require the giving of this evidence under oath and may administer the oath. Any person voluntarily providing information or evidence may be required to do so under oath administered by the Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them. If any person fails or refuses to testify or furnish documentary evidence concerning any matter requested, the Franklin Circuit Court, on application of either the Attorney General or the Auditor of Public Accounts or both, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or of a refusal to testify in the circuit court.

(3) The Attorney General and the Auditor of Public Accounts shall have without restriction:

(a) Full access to all records of the authority;

(b) Full access to all financial transactions and investigations of the authority; and

(c) The right to attend all meetings of the board and its committees.

(4) If fraud, mismanagement, illegal activity, imprudent practices, or other deficiencies are found in the operations or other practices of the authority, the Attorney General or Auditor of Public Accounts, or both, shall:

(a) Recommend internal corrective action;

(b) Institute a civil action or action for injunctive relief to compel corrective action;

(c) Institute criminal proceedings against any officer or employee of the authority or any other person, as defined in KRS 446.010, as may be necessary; or

(d) Any combination of the above-listed actions or any other form of action reasonably calculated to ensure efficient and honest operations of the authority and those involved with it.

(5) The Attorney General and the Auditor of Public Accounts shall report jointly to the General Assembly in January of each year in which the General Assembly convenes in an even-numbered-year regular session the results of the monitoring activities required by this section.

SECTION 22. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

(1) No policy of insurance to be used therewith shall be issued or delivered until a copy of its form has been filed with and approved by the commissioner of the Department of Insurance in accordance with KRS Chapter 304, Subtitle 14.

(2) Every insurance contract procured and delivered pursuant to Sections 1 to 23 of this Act shall have conspicuously stamped on the face page the following: "This insurance has been placed with an insurer who is not a member of the Kentucky Insurance Guaranty Association. Should the insurer become insolvent, the protection and benefits of the Kentucky Insurance Guaranty Association are not available."

SECTION 23. A NEW SECTION OF KRS CHAPTER 305 IS CREATED TO READ AS FOLLOWS:

The authority shall be subject to provisions of the following Subtitles of KRS Chapter 304:

(1) Subtitle 1;

(2) Subtitle 2;

(3) KRS 304.3-050, 304.3-080, 304.3-120, 304.3-240, 304.3-241, 304.3-270, 304.3-280, and 304.3-330;

(4) Subtitle 4;

(5) Subtitle 5;

(6) Subtitle 6;

(7) Subtitle 7;

(8) Subtitle 9;

(9) Subtitle 12;

(10) Subtitle 13;

(11) Subtitle 14;

(12) Subtitle 20;

(13) KRS 304.24-030, 304.24-100, 304.24-160, 304.24-170, 304.24-180, 304.24-190, 304.24-220, 304.24-230, 304.24-240, 304.24-270, 304.24-280, 304.24-290, 304.24-300, 304.24-310, 304.24-330, 304.24-340, 304.24-350, 304.24-415, and 304.24-420;

(14) Subtitle 47; and

(15) Subtitle 99.

Section 24. KRS 342.829 is amended to read as follows:

(1) The authority shall not receive any direct state general fund appropriation.

(2) Initial funding for the authority shall be determined by the Governor and the secretary of the Finance and Administration Cabinet. Funding methods may include, but not be limited to, a loan from an existing state agency or agencies to the authority. The maximum amount borrowed from all state agencies shall not exceed seven million dollars ($7,000,000), to be repaid over a period not to exceed ten (10) years from the original loan date. The Governor shall have the authority to provide or secure additional funding necessary to maintain, for the first thirty-six (36) months of its operation, the surplus the Governor deems proper. The additional funding may come from any funds which may be expended directly by the Governor or from nonstate-agency sources and, regardless of source, shall be a loan to the authority. The rate of interest to be applied to the loan shall be one percent (1%) higher than the average for the long-term investment folder of the lending agency on the anniversary date of the original loan. The interest rate shall be adjusted annually on the anniversary date of the original loan. To minimize cash requirements and interest obligations, the loan shall be executed as a line of credit against the lending agency, so that only those funds actually required for initial start-up operations, including the establishment of a surplus and reinsurance expenses, are drawn down on an "as needed" basis.

(3) Any executive branch agency of the Commonwealth and any public corporation created by the Commonwealth, any statute to the contrary notwithstanding, may lend money to the authority subject to the terms and conditions of this section, and any loan made pursuant to this section shall not be construed as a breach or violation of fiduciary duties contained in KRS Chapter 386.

(4) Funds collected by the authority shall not:

  (a) Be loaned to the Commonwealth or any instrumentality or agency thereof;

  (b) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for repayment of the loan authorized in subsections (2) and (3) of this section; or

  (c) Be expended for any other purposes than as authorized by KRS 342.801 to 342.843 and KRS 304.13-340.

(5) Notwithstanding provisions of subsection (4) of this section, a loan for initial funding to Kentucky Providers' Mutual Insurance Authority may be made in accordance with Section 15 of this Act.

SECTION 25. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 25 to 33 of this Act, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of the Department of Insurance;

(2) "Malpractice" means a tort or breach of contract based on physician services that were provided, or that should have been provided, by a physician to a patient;

(3) "Patient" means an individual who receives or should have received health care from a physician, under a contract, express or implied, and includes a person having a claim of any kind, whether derivative or otherwise, as a result of alleged malpractice on the part of a physician. Derivative claims include the claim of a parent or parents, guardian, trustee, child, relative, attorney, or any other representative of the patient including claims for loss of services, loss of consortium, expenses, and other similar claims; and

(4) "Physician" means a person who holds a valid and effective license as a physician issued by the State Board of Medical Licensure under KRS Chapter 311.

SECTION 26. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Sections 25 to 33 of this Act provide for establishment of medical review panels to review malpractice complaints against physicians.

(2) Not earlier than twenty (20) days after the filing of a complaint, either party may request the formation of a medical review panel by serving a request by registered or certified mail upon all parties and the commissioner.

SECTION 27. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) (a) A medical review panel consists of one (1) attorney and three (3) physicians.

  (b) The attorney member of the medical review panel shall act as chair of the panel and in an advisory capacity, but may not vote.

(c) The chair shall expedite the selection of the other panel members, convene the panel, and expedite the panel's review of the proposed complaint. The chair may establish a reasonable schedule for submission of evidence to the medical review panel but must allow sufficient time for the parties to make full and adequate presentation of related facts and authorities.

(2) A medical review panel shall be selected in the following manner:

(a) Within fifteen (15) days after the filing of a request for formation of a medical review panel under Section 26 of this Act, the parties shall select a panel chair by agreement. If no agreement on a panel chair can be reached, either party may request the clerk of the circuit court to draw at random a list of five (5) names of attorneys who:

1. Are qualified to practice;

2. Are presently on the rolls of the circuit court; and

3. Maintain offices in the county of venue designated in the proposed complaint or in a contiguous county.

(b) Before selecting the random list, the clerk shall collect a twenty-five dollar ($25) medical review panel selection fee from the party making the request for the formation of the random list.

(c) The clerk shall notify the parties, and the parties shall then strike names alternately with the plaintiff striking first until one (1) name remains. The remaining attorney shall be the chair of the panel.

(d) After the striking, the plaintiff shall notify the chair and all other parties of the name of the chair.

(e) If a party does not strike a name within five (5) days after receiving notice from the clerk:

1. The opposing party shall, in writing, request the clerk to strike for the party; and

2. The clerk shall strike for that party.

(f) When one (1) name remains, the clerk shall within five (5) days notify the chair and all other parties of the name of the chair.

(g) Within fifteen (15) days after being notified by the clerk of being selected as chair, the chair shall:

1. Send a written acknowledgment of appointment to the clerk; or

2. Show good cause for relief from serving as provided in subsection (2) of Section 28 of this Act.

(3) All physicians in Kentucky, whether in the teaching profession or otherwise, who hold a license to practice in their profession shall be available for selection as members of the medical review panel.

(4) Each party to the action has the right to select one (1) physician, and upon selection, the two (2) physicians thus selected shall select the third panelist.

(5) If there are multiple plaintiffs or defendants, only one (1) physician shall be selected per side. The plaintiff, whether single or multiple, has the right to select one (1) physician and the defendant, whether single or multiple, has the right to select one (1) physician.

(6) If the individual defendant is a physician who specializes in a limited area, two (2) of the panelists selected must be physicians who specialize in the same area as the defendant.

(7) Within fifteen (15) days after the chair is selected, both parties shall select a physician member and the parties shall notify the other party and the chair of their selection. If a party fails to make a selection within the time provided, the chair shall make the selection and notify both parties. Within fifteen (15) days after their selection, the members shall select the third member within the time provided and notify the chair and the parties. If the physician members fail to make a selection, the chair shall make the selection and notify both parties.

(8) Within ten (10) days after the selection of a panel member, written challenge without cause may be made to the panel member. Upon challenge or excuse, the party whose appointee was challenged or dismissed shall select another panelist. If the challenged or dismissed panel member was selected by the other two (2) panel members, the panel members shall make a new selection. If two (2) such challenges are made and submitted, the chair shall within ten (10) days appoint a panel consisting of three (3) qualified panelists and each side shall, within ten (10) days after the appointment, strike one (1) panelist. The party whose appointment was challenged shall strike last, and the remaining member shall serve.

SECTION 28. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) When a medical review panel is formed, the chair shall within five (5) days notify the commissioner and the parties by registered or certified mail of the following:

(a) The names and addresses of the panel members; and

(b) The date on which the last member was selected.

(2) (a) A member of a medical review panel who is selected under Sections 25 to 33 of this Act shall serve unless:

1. The parties by agreement excuse the panelist; or

2. The panelist is excused as provided in this section for good cause shown.

(b) To show good cause for relief from serving, the attorney selected as chair of a medical review panel must serve

an affidavit upon the clerk of the circuit court. The affidavit must set out the facts showing that service would constitute an unreasonable burden or undue hardship. The clerk may excuse the attorney from serving. The attorney shall notify all parties, who shall then select a new chair as provided in subsection (2) of Section 27 of this Act.

(c) To show good cause for relief from serving, a physician member of a medical review panel must serve an affidavit upon the panel chair. The affidavit must set out the facts showing that service would constitute an unreasonable burden or undue hardship. The chair may excuse the member from serving and notify all parties.

(3) A party, attorney, or panelist who fails to act as required by Sections 25 to 33 of this Act without good cause shown is subject to mandate or appropriate sanctions upon application to the court designated in the proposed complaint as having jurisdiction.

(4) (a) The commissioner may remove the chair of the panel if the commissioner determines that the chair is not fulfilling the duties imposed upon the chair by Sections 25 to 33 of this Act.

(b) If the chair is removed under this section, a new chair shall be selected under Sections 25 to 33 of this Act.

(5) (a) The chair may remove a member of the panel if the chair determines that the member is not fulfilling the duties imposed upon the panel members by Sections 25 to 33 of this Act.

(b) If a member is removed under this section, a new member shall be selected under Sections 25 to 33 of this Act.

SECTION 29. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The evidence in written form to be considered by the medical review panel shall be promptly submitted by the respective parties.

(2) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, and any other form of evidence allowable by the medical review panel.

(3) Depositions of parties and witnesses may be taken before the convening of the panel.

(4) The chair shall ensure that before the panel gives its expert opinion under Section 31 of this Act, each panel member has the opportunity to review every item of evidence submitted by the parties.

(5) Before considering any evidence or deliberating with other panel members, each member of the medical review panel shall take an oath in writing on a form provided by the panel chair, which must read as follows: "I (swear) (affirm) under penalties of perjury that I will well and truly consider the evidence submitted by the parties; that I will render my opinion without bias, based upon the evidence submitted by the parties, and that I have not and will not communicate with any party or representative of a party before rendering my opinion, except as authorized by law."

SECTION 30. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Neither a party, a party's agent, a party's attorney, nor a party's insurance carrier may communicate with any member of the panel, except as authorized by law, before the giving of the panel's expert opinion under Section 31 of this Act.

(2) The chair of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in Section 31 of this Act.

(3) (a) Either party, after submission of all evidence and upon ten (10) days notice to the other side, has the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of the panel's report.

(b) The chair of the panel shall preside at all meetings. Meetings shall be informal.

(4) (a) The panel has the right and duty to request all necessary information;

(b) The panel may consult with medical authorities;

(c) The panel may examine reports of other health care providers necessary to fully inform the panel regarding the issue to be decided; and

(d) Both parties shall have full access to any material submitted to the panel.

(5) A panelist has absolute immunity from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by Sections 25 to 33 of this Act.

SECTION 31. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The panel has the sole duty to express the panel's expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint.

(2) After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty (30) days, give one (1) or more of the following expert opinions, which must be in writing and signed by the panelists:

(a) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(b) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(c) There is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court or jury.

(d) The conduct complained of was or was not a factor of the resultant damages. If so, whether the plaintiff suffered:

1. Any disability and the extent and duration of the disability; and

2. Any permanent impairment and the percentage of the impairment.

(3) A report of the expert opinion reached by the medical review panel is admissible as evidence in any action brought by the claimant in a court of law. However, the expert opinion is not conclusive, and either party, at the party's cost, has the right to call any member of the medical review panel as a witness. If called, a witness shall appear and testify.

(4) The chair shall submit a copy of the panel's report to:

(a) The commissioner; and

(b) All parties and attorneys;

by registered or certified mail within five (5) days after the panel gives its opinion.

SECTION 32. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The panel shall give its expert opinion within one hundred eighty (180) days after the selection of the last member of the initial panel. However, if:

(a) The chair of the panel is removed under subsection (4) of Section 28 of this Act, another member of the panel is removed under subsection (5) of Section 28 of this Act, or any member of the panel, including the chair, is removed by a court order; and

(b) A new member is selected to replace the removed member more than ninety (90) days after the last member of the initial panel is selected;

the panel has ninety (90) days after the selection of the new member to give an expert opinion.

(2) If the panel has not given an opinion within the time allowed under subsection (1) of this section, the panel shall submit a report to the commissioner, stating the reasons for the delay.

SECTION 33. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Each physician member of the medical review panel is entitled to be paid:

(a) Up to three hundred fifty dollars ($350) for all work performed as a member of the panel, exclusive of time involved if called as a witness to testify in court; and

(b) Reasonable travel expenses.

(2) The chair of the panel is entitled to be paid:

(a) At the rate of two hundred fifty dollars ($250) per diem, not to exceed two thousand dollars ($2,000); and

(b) Reasonable travel expenses.

(3) The chair shall keep an accurate record of the time and expenses of all the members of the panel. The record shall be submitted to the parties for payment with the panel's report.

(4) Fees of the panel, including travel expenses and other expenses of the review, shall be paid by the side in whose favor the majority opinion is written. If there is no majority opinion, each side shall pay fifty percent (50%) of the cost.

SECTION 34. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists licensed under KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

(2) In an action alleging malpractice, error, mistake, or failure to cure, whether based on contract or tort, against a health care provider which includes a cause of action as to which expert testimony is necessary to establish a prima facie case, the plaintiff shall:

(a) Unless otherwise provided in paragraph (b) of subsection (3) of this section, serve upon defendant with the summons and complaint an affidavit as provided in subsection (3) of this section; and

(b) Serve upon defendant within one hundred eighty (180) days after commencement of the suit an affidavit as provided by subsection (4) of this section.

(3) The affidavit required by paragraph (a) of subsection (2) of this section shall be by the plaintiff's attorney and state that:

(a) The facts of the case have been reviewed by the plaintiff's attorney with an expert whose qualifications provide a reasonable expectation that the expert's opinions could be admissible at trial and that, in the opinion of this expert, one (1) or more defendants deviated from the applicable standard of care and by that action caused injury to the plaintiff; or

(b) The expert review required by paragraph (a) of this subsection could not reasonably be obtained before the action was commenced because of the applicable statute of limitations. If an affidavit is executed pursuant to this paragraph, the affidavit in paragraph (a) of this subsection shall be served on defendant or the defendant's counsel within ninety (90) days after service of the summons and complaint.

(4) (a) The affidavit required by paragraph (b) of subsection (2) of this section shall be signed by each expert listed in the affidavit and by the plaintiff's attorney and state the identity of each person whom plaintiff expects to call as an expert witness at trial to testify with respect to the issues of malpractice or causation, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. Answers to interrogatories that state the information required by this subsection satisfy the requirements of this subsection if they are signed by the plaintiff's attorney and by each expert listed in the answers to interrogatories and served upon the defendant within one hundred eighty (180) days after commencement of the suit against the defendant.

(b) The parties or the court for good cause shown may by agreement provide for extensions of the time limits specified in subsection (2), (3), or (4) of this section. Nothing in this subsection may be construed to prevent either party from calling additional expert witnesses or substituting other expert witnesses.

(c) In any action alleging medical malpractice, all expert interrogatory answers shall be signed by the attorney for the party responding to the interrogatory and by each expert listed in the answers. The court shall include in a scheduling order a deadline prior to the close of discovery for all parties to answer expert interrogatories for all experts to be called at trial. No additional experts may be called by any party without agreement of the parties or by leave of the court for good cause shown.

(5) If the plaintiff is acting pro se, the plaintiff shall sign the affidavit or answers to interrogatories referred to in this section and is bound by those provisions as if represented by an attorney.

(6) (a) Failure to comply with paragraph (a) of subsection (2) of this section within sixty (60) days after demand for the affidavit results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(b) Failure to comply with paragraph (b) of subsection (2) of this section results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(c) Failure to comply with subsection (4) of this section because of deficiencies in the affidavit or answers to interrogatories results, upon motion, in mandatory dismissal with prejudice of each action as to which expert testimony is necessary to establish a prima facie case, if:

1. The motion to dismiss the action identifies the claimed deficiencies in the affidavit or answers to interrogatories;

2. The time for hearing the motion is at least forty-five (45) days from the date of service of the motion; and

3. Before the hearing on the motion, the plaintiff does not serve upon the defendant an amended affidavit or answers to interrogatories that correct the claimed deficiencies.

(7) The signature of the plaintiff or the plaintiff's attorney constitutes a certification that the person has read the affidavit or answers to interrogatories, and that to the best of the person's knowledge, information, and belief formed after a reasonable inquiry, it is true, accurate, and made in good faith. A certification made in violation of this subsection subjects the attorney or plaintiff responsible for such conduct to reasonable attorney's fees, costs, and disbursements.

SECTION 35. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists licensed under KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

(2) All lawsuits involving claims of professional negligence against health care providers shall be subject to mediation, to fully explore possibilities for a prompt and fair voluntary settlement of claims.

(3) The mediation shall take place within ninety (90) days after all responsive pleadings are filed in the lawsuit, unless the parties obtain a court order extending the time.

(4) Parties may consent to a postponement of up to sixty (60) days.

(5) Parties may opt out of mediation only by obtaining a court order exempting them.

(6) Parties may mutually agree to select a mediator of their choice or, if they cannot agree within twenty (20) days after all responsive pleadings are filed in the lawsuit, a mediator shall be appointed by the court in which the action is pending.

(7) At least seven (7) days before the mediation, parties shall provide the mediator with a statement of issues, which identifies the issues in dispute and the parties' positions and interests. The pleadings and any documents of importance to the case shall be included.

(8) If any party fails to submit a statement of issues or to attend within the first thirty (30) minutes of the mediation session, the mediator may cancel the mediation and file with the court a certificate of noncompliance. The party responsible for the cancellation will be required to pay any cancellation fees charged by the mediator and may be subject to sanctions imposed by the court.

(9) The mediation may be held anywhere that is acceptable to the parties, such as the mediator's office, the office of any party or lawyer, or at the court facilities.

(10) All parties and, if they are represented, their lawyers and, if they are insured, a representative of their insurer shall attend the mediation. A lawyer may not attend in the place of a party. Those present shall have authority to settle the case and the parties shall extend authority to settle to their insurers, if any, where consent to settle is required by the policy of insurance. If a corporation, partnership, or other organization is a claimant or a defendant, it shall be represented by an individual who is authorized to make a decision on its behalf.

(11) The mediator shall allow a mediation session of up to three (3) hours. The mediator may end the mediation before that time if the case settles or if he or she concludes that the process is not constructive for the parties. If the mediation is not concluded within three (3) hours, the mediator may, with the consent of all parties, continue the session or arrange for additional sessions.

(12) Agreements resolving some or all of the issues in dispute shall be in writing and signed by the parties or their lawyers. If the parties settle the case, the parties shall file a notice with the court advising of the settlement with ten (10) days of the agreement being signed. Agreements reached at mediation are legally binding. If a party fails to comply with a signed agreement, any other party to the agreement may bring a motion for judgment under the terms of the agreement or continue the legal proceedings as if there had been no agreement.

(13) After the session, the mediator shall complete and file a report on the outcome of the mediation with the court in which the action is pending.

(14) The mediator's fee shall be paid equally by the parties.

Section 36. Sections 1 to 24 of this Act take effect August 1, 2003.

The Committee Amendment No. 1 Title to **HB 8** is as follows:

HB 8, Amend the title to read as follows: "AN ACT relating to health care provider medical malpractice."

HB 443, AN ACT relating to health maintenance organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.38-070 is amended to read as follows:

(1) This subsection applies to a corporation or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a corporation or limited liability corporation shall possess and thereafter maintain unimpaired paid-in capital stock of one million dollars ($1,000,000), and, when first so authorized, shall possess initial free surplus of not less than two million dollars ($2,000,000);

(b) A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. Notwithstanding the other provisions hereof, the exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date it has accumulated capital and surplus equal to or in excess of the capital and surplus required by paragraph (a) of this subsection; and

(c) Each corporation authorized as a health maintenance organization shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars ($250,000) and shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner. A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency as required for such authority immediately prior to July 15, 1986. The exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which it has accumulated additional surplus equal to or in excess of the additional surplus required by this subsection.

(2) This subsection applies to a partnership applying for or holding a certificate of authority as a health maintenance organization:

(a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a partnership shall possess, when first so authorized, a total of at least three million dollars ($3,000,000) in its capital accounts. Thereafter, a partnership authorized as a health maintenance organization shall possess and maintain a total of at least one million two hundred fifty thousand dollars ($1,250,000) in its capital accounts and shall comply at all times with the risk-based capital requirement established in administrative regulations promulgated by the commissioner;

(b) A partnership holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. The exception provided for in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which the total of the funds which it has accumulated in its capital accounts equal or exceed the total of the funds in its capital accounts required by this subsection.

(3) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with risk-based capital (RBC) requirements as follows:

(a) For purposes of this subsection, risk-based capital shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with 806 KAR 38:100;

(b) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows:

1. "Company Action Level RBC" means the product of two (2.0) and its Authorized Control Level RBC;

2. "Regulatory Action Level RBC" means the product of one and five-tenths (1.5) and its Authorized Control Level RBC;

3. "Authorized Control Level RBC" means the product of four-tenths (.40) and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and

4. "Mandatory Control Level RBC" means the product of seven-tenths (.70) and the Authorized Control Level RBC; and

(c) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this section and 806 KAR 38:100 and shall not be eligible to calculate its risk-based capital according to this subsection.

HB 454, AN ACT relating to insurance accounting practices and procedures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.2-065 is amended to read as follows:

(1) There is created within the Department of Insurance the position of early warning analyst.

(2) The commissioner shall appoint a qualified person to serve as early warning analyst.

(3) The early warning analyst shall detect domiciled companies and companies doing a significant amount of business in the Commonwealth that are in a hazardous or potentially hazardous financial condition.

(4) The early warning analyst shall be part of the Financial Standards and Examination Division.

(5) The early warning analyst shall:

(a) Take advantage of the information available through the Insurance Regulatory Information System and use the information to monitor insurers;

(b) Seek information from other states' detection programs;

(c) Work with other Department of Insurance employees representing key regulatory areas of the department;

(d) Coordinate and develop the use of an indicator list to determine if an insurer is in a hazardous condition. The indicator list shall include but is not limited to the following indicators:

1. An insurer fails to file a timely financial statement as established in KRS Chapter 304;
2. An insurer files financial information which is false or misleading;
3. An insurer overstates its surplus by twenty-five percent (25%) or more;
4. An insurer fails to grant authorization to amend its financial statement when requested;
5. An insurer's financial ratios are outside of the usual range established by the National Association of Insurance Commissioners in the Insurance Regulatory Information System;
6. A projection by the department of an insurer's current financial condition indicates that the sum of its paid-in capital, paid-in surplus, and contributed surplus will be reduced within the next twelve (12) months;
7. An insurer's aggregate net retained risk, direct or assumed, under any one (1) insurance policy or certificate of insurance under a group policy is more than ten percent (10%) of the insurer's surplus, except where otherwise permitted by law;
8. An insurer's reserves for losses and loss adjustment expenses are discounted more than ten percent (10%) of the surplus;
9. An affiliate or subsidiary of an insurer is unable to pay its obligations as the obligations become due and payable;
10. A life, accident, and health insurer has premium writings that result in the surplus being less than five percent (5%) of the aggregate general account reserves for the life insurance in force plus twenty-five percent (25%) of the new annualized accident and health premium writing;
11. An insurer has reinsurance reserve credits, recoverable or receivable, that are disputed by the reinsurer, or are due and payable and remain unpaid, and the reinsurance credits, recoverables, and receivables are more than ten percent (10%) of an insurer's surplus;
12. An insurer consistently issues subordinate premium or surplus debentures to finance its operations;
13. An insurer fails to adequately maintain books and records in a manner that permits examiners to determine the financial condition of the insurer;
14. An insurer has reinsurance agreements affecting twenty percent (20%) or more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do insurance business in the Commonwealth of Kentucky;
15. An insurer's management does not have the experience, competence, or trustworthiness to operate the insurer in a safe and sound manner;
16. An insurer's management engages in unlawful transactions;
17. An insurer fails to have an appraisal made on real estate upon which the insurer has made a mortgage loan;
18. An insurer fails to comply with the terms of an agreement with an affiliate;

19. An insurer has a pattern of refusing to settle valid claims within a reasonable time after due proof of the loss has been received;

20. An insurer fails to follow a policy on rating and underwriting standards appropriate to the risk;

21. An insurer violates KRS Chapter 304;

22. A final administrative or judicial order, initiated by an insurance regulatory agency of another state, is issued against an insurer; and

23. An insurer is in any condition that the commissioner finds is a hazard to policyholders, creditors, or the general public;

(e) Recommend regulatory action and provide status reports to the commissioner; and

(f) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance ***annually***[~~biannually~~] to report on the status of domestic insurance companies and insurance companies doing a substantial amount of business in the Commonwealth of Kentucky.

Section 2. KRS 304.2-080 is amended to read as follows:

(1) The commissioner or any deputy, examiner, actuary, assistant or employee of the department, shall not be connected with the management of, or be financially interested, directly or indirectly, in any insurer, insurance agency or broker, or insurance transaction except as policyholder or claimant under a policy; except, that as to matters wherein a conflict of interest does not exist on the part of any such individual, the commissioner may employ or retain from time to time insurance actuaries, examiners, accountants, attorneys, or other technicians who are independently practicing their profession even though from time to time similarly employed or retained by insurers or others.

(2) No person shall directly or indirectly give or pay to the commissioner or any deputy, examiner, actuary, assistant, employee or technician retained by the department; and the commissioner, or any deputy, examiner, actuary, assistant, employee or technician retained by the department, shall not directly or indirectly receive or accept any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by law, or by contract with the commissioner, for any service rendered or to be rendered, as such commissioner, deputy, examiner, actuary, assistant, employee or technician, or in connection therewith.

(3) Subsection (1) of this section shall not be deemed to prohibit receipt by any such person of commissions or retirement benefits to which entitled by reason of services performed prior to becoming commissioner or prior to employment by the commissioner.

[~~(4) This section shall not be deemed to prohibit appointment and functioning of the commissioner as process agent of insurers or of nonresident licensees as provided for in this code.~~]

Section 3. KRS 304.2-270 is amended to read as follows:

The report of examination of a domestic insurer, although filed in the department as provided in KRS 304.2-260 shall nevertheless not be for public inspection except as to those portions of the report showing the insurer's current financial condition. The ***examination work papers***[~~comments and recommendations of the examiner(s)~~] shall be deemed confidential information and shall not be available for public inspection, except that the commissioner may in his discretion disclose the content of an examination report, preliminary examination report, ***examinations***[~~or~~] results, or any ***other*** matter relating to an examination report, to the Department of Insurance of any other state or country, or to law enforcement officials of this or any other state, or to an agency of this or any other state or the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this section and KRS 304.2-260.

Section 4. KRS 304.2-300 is amended to read as follows:

(1) There is created in the State Treasury the "Examination Expense Revolving Fund" for the use of the department. The commissioner shall promptly deposit all funds received under a statute requiring examination expenses to be paid by the party examined and deposited with the State Treasurer to the credit of ***the***[~~such~~] fund.

(2) Moneys for travel, per diem, compensation and other necessary and authorized expenses incurred by an examiner or other department representative in the examination of any person required to pay, and making payment of, the expense of examination pursuant to KRS 304.2-290 shall be paid out of the examination expense revolving fund, upon approval of the commissioner.

(3) Moneys for travel[~~, compensation~~] and other necessary expenses[~~ of the custodian of insurance securities~~] assessed pursuant to KRS 304.8-190 shall be paid out of the examination expense revolving fund upon approval of the commissioner.

(4) If any amount in ***the***[~~such~~] revolving fund remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account and may be used during the succeeding year or years.

Section 5. KRS 304.2-360 is amended to read as follows:

(1) In the conduct of hearings under this code and making ***a***[~~his~~] final order thereon, the commissioner shall act in a quasijudicial capacity and in accordance with the provisions of this chapter and KRS Chapter 13B.

(2) With respect to hearings held concerning merger, consolidation, bulk reinsurance, conversion, affiliation, or change of

control of a domestic insurer as provided in Subtitle 24, or in Subtitle ***37***~~[27]~~ of this chapter, where notice of the hearing was given to all stockholders and policyholders or to all stockholders of an insurer involved, the commissioner is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.

(3) A final order may require that restitution be made to any person aggrieved by a violation of any provisions of this chapter, any statute administered by the commissioner, or any regulation of the commissioner.

(4) An order prepared by the commissioner's designee and approved in writing by the commissioner shall be considered the commissioner's order.

Section 6. KRS 304.3-110 is amended to read as follows:

An insurer which otherwise qualifies therefor may be authorized to transact any one (1) kind or any combination of kinds of insurance as defined in Subtitle 5, except:

(1) A life insurer may grant annuities and may be authorized to transact in addition only health insurance; except, that the commissioner may, if the insurer otherwise qualifies therefor, continue so to authorize any life insurer which immediately prior to June 18, 1970, was lawfully authorized to transact in this state a kind or kinds of insurance in addition to life and health and annuities. ***Only an insurer with a certificate of authority authorized to sell life insurance may grant and issue annuity contracts.***

(2) A reciprocal or Lloyd's insurer shall not transact life insurance.

(3) A title insurer shall be a stock insurer, and shall not transact any other kind of insurance.

(4) A mortgage guaranty insurer shall be a stock insurer, and shall not transact any other kind of insurance.

Section 7. KRS 304.3-150 is amended to read as follows:

To apply for an original certificate of authority an insurer shall file with the commissioner its written application therefor on forms as prescribed and furnished by the commissioner, accompanied by the applicable fees specified in Subtitle 4, stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact (if a reciprocal insurer or Lloyd's plan insurer), the insurer's name, location of its principal office, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, its domicile, and any additional information as the commissioner may reasonably require, together with the following documents, as applicable:

(1) If a corporation, a copy of its charter, together with all amendments thereto, or as restated and amended under the laws of its state or country of incorporation, currently certified by the public official with whom the originals are on file in a state or country.

(2) A copy of its bylaws, certified by the insurer's secretary.

(3) If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, and copy of its subscribers agreement, if any, both certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in KRS ***304.27-060***~~[304.2-060]~~.

(4) If a Lloyd's plan insurer, the names and addresses of all of the underwriters proposing to engage in the business, along with the number of underwriters which shall not be less than twenty-five (25), and that each underwriter is worth in his own right not less than twenty thousand dollars ($20,000) over and above all his liabilities, along with a statement showing a list of all cash and invested assets owned by the associated underwriters and their value, certified and sworn to by their duly authorized attorney-in-fact.

(5) A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two (2) executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state or country of domicile.

(6) A copy of the report of last examination of the insurer prior to the filing of the application, certified by the public insurance supervisory official of the insurer's state or country of domicile.

(7) If a foreign or alien insurer, the name and address of the person to whom the Secretary of State shall forward lawful process served upon him. If a domestic reciprocal insurer, the name and address of the attorney designated pursuant to paragraph (e) of subsection (2) of KRS 304.27-060 shall be deemed to be the person to whom the Secretary of State shall forward lawful process served upon him. Any judgment against a domestic reciprocal so served shall be binding upon each of the insurer's subscribers as their respective contingent liabilities.

(8) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in a state or country the kinds of insurance proposed to be transacted in this state.

(9) If an alien insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140, and a copy of the trust deed, if any, pertaining to a deposit, certified by the trustee.

(10) If a foreign insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140.

(11)~~[If a life or health insurer, a copy of the insurer's rate book and of each form of policy currently proposed to be issued in~~

~~this state, and of the form of application therefor.~~

~~(12)~~] If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(12)[~~(13)~~] Designation by the insurer of its officers or representatives authorized to appoint and remove its agents in this state.

(13)[~~(14)~~] If to transact surety insurance, the names and addresses of all its attorneys in fact within this state together with the scope of authority of each attorney-in-fact.

Section 8. KRS 304.3-180 is amended to read as follows:

(1) A certificate of authority shall continue in force as long as the insurer is entitled thereto under this code, and until suspended or revoked by the commissioner or terminated at the insurer's request; subject, however, to continuance of the certificate by the insurer each year by:

(a) Payment[~~ on or before March 1~~] of the continuation fee provided in Subtitle 4 ***by March 1, or, if paid by mail, postmarked no later than March 1***;

(b) Due filing by the insurer of its annual statement for the next preceding calendar year as required by KRS 304.3-240;

(c) Payment by the insurer of premium taxes with respect to the preceding calendar year; and

(d) Due filing by domestic companies of quarterly statements as approved by the National Association of Insurance Commissioners.

(2) If not so continued by the insurer, its certificate of authority shall expire at midnight on the June 30 next following the failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in KRS 304.4-040. The commissioner shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

(3) The commissioner may, in his discretion, upon the insurer's request made within three (3) months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration. Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

(4) An insurer shall not use the same accountant or partner of an accounting firm responsible for preparing the ***audited financial statement for more than seven (7)***[~~report required by subsection (1) for more than four (4)~~] consecutive years.

Section 9. KRS 304.3-240 is amended to read as follows:

(1) Each authorized insurer shall annually[~~, before the first day of March,~~] file with the commissioner a true statement of its financial condition, transactions, and affairs as of December 31 preceding. The statement shall be on forms prescribed by the National Association of Insurance Commissioners and shall be completed according to the instructions of the National Association of Insurance Commissioners, and shall be verified by the oaths of at least two (2) of the insurer's principal officers. The annual statement of a reciprocal insurer shall be made and verified by its attorney-in-fact. ***The annual statement shall be filed by March 1 of each year, or, if filed by mail, postmarked no later than March 1. The annual statement of a foreign or alien insurer may be executed or verified by facsimile or reproduced signature; however, the annual statement of a domestic insurer shall contain original signatures.***

(2) [~~The commissioner shall annually during November furnish each insurer duplicate copies of annual statement forms as next required to be filed. ~~]The statement forms shall be in general form and context as approved by the National Association of Insurance Commissioners for the kinds of insurance to be reported upon, and as supplemented for additional information required by the commissioner.

(3) The annual statement of an alien insurer shall relate only to its assets, transactions, and affairs in the United States unless the commissioner requires otherwise. The statement shall be verified by the insurer's United States manager or by its officers duly authorized.

(4) The commissioner may suspend or revoke the authority of any insurer failing to file its annual and quarterly statement when due or failing so to file during any extension of time therefor which the commissioner, for good cause, may grant.

(5) Notwithstanding the provisions of this section or any other law of this Commonwealth, an authorized insurer may, subject to the requirements of regulations adopted by the commissioner, publish financial statements or information based on financial statements prepared on a basis which is in accordance with requirements of a competent authority and which differs from the basis of the statements which have been filed with the commissioner in compliance with this section. Such differing financial statements or information based on the financial statements shall not be made the basis for the application of any provision of this chapter not relating solely to the publication of financial information unless the provision specifically so requires.

Section 10. KRS 304.3-320 is amended to read as follows:

(1) Foreign insurers currently admitted to do the business of life and health insurance in Kentucky and foreign insurers hereafter admitted to do the business of life and health insurance in Kentucky which are domiciled in states which have no life and health insurance guaranty association or similar guaranty fund in operation may be required by the commissioner,

in order to protect Kentucky policyholders, to ***furnish to the commissioner a*** deposit ***of cash or***~~[with the custodian of insurance securities]~~ publicly-traded securities having a market value of not less than one hundred thousand dollars ($100,000) nor more than one million dollars ($1,000,000).

(2) In establishing the amount of the deposit required by subsection (1) of this section for a particular insurer, the commissioner shall consider the following factors:

(a) The amount of Kentucky writings;

(b) The amount of policy reserves and claim reserves pertaining to Kentucky risks;

(c) The kind of insurance written in Kentucky;

(d) The current financial and operating test results of the insurer provided by the National Association of Insurance Commissioners under its insurance regulatory information system; and

(e) Any other relevant financial data.

SECTION 11. A NEW SECTION OF SUBTITLE 6 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Accounting practices and procedures manual" means the accounting procedures and procedures manual as amended, published by the National Association of Insurance Commissioners; and

(2) "SSAP" means the statements of statutory accounting principles in the accounting practices and procedures manual.

Section 12. KRS 304.6-010 is amended to read as follows:

(1) In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(a) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(b) Investments, securities, properties and loans acquired or held in accordance with this code and in connection therewith the following items:

1. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

2. Declared and unpaid dividends on stocks and shares, unless such amount has otherwise been allowed as an asset.

3. Interest due or accrued upon a collateral loan in an amount not to exceed one (1) year's interest thereon.

4. Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectible asset.

5. Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal***. Collectible interest one hundred eighty (180) days past due on a mortgage loan in default is a nonadmitted***~~[; but in no event shall interest accrued for a period in excess of eighteen (18) months be allowed as an]~~ asset.

6. Rent due or accrued on real property if such rent is not in arrears for more than three (3) months, and rent more than three (3) months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(c) Premium notes, policy loans, and other policy assets and liens on policies of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the ***policy reserves or cash surrender value***~~[legal reserve and other policy liabilities carried on each individual policy]~~.

(d) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer, corresponding to the basis on which reserves are held.

(e) Premiums in the course of collection, other than for life insurance, not more than three (3) months past due, less commissions payable thereon. ***To the extent that there is no related unearned premium, any uncollected premium balances which are over ninety (90) days due shall be nonadmitted. The uncollected agent's receivable on a policy by policy basis which is over ninety (90) days due shall be nonadmitted regardless of any unearned premium***~~[The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or by any of its instrumentalities]~~.

(f) Installment premiums other than life insurance premiums to the extent of the policy reserve carried on the policy to which premiums apply. ***If an installment premium is past due, the amount over ninety (90) days due plus all future installments that have been recorded on that policy shall be nonadmitted.***

(g) ***Bills receivable***~~[Notes and like written obligations not past due, taken]~~ for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the policy reserve carried thereon. ***Bills receivable shall be nonadmitted if either of the following conditions are present:***

1. If an installment premium is over ninety (90) days due, the entire bills receivable balance from that

policy shall be nonadmitted; or

2. If the bills receivable balance due exceeds the policy's unearned premium, the amount in excess of the unearned premium is nonadmitted.

(h) The full amount of reinsurance recoverable ***on paid losses and loss adjustment expense*** by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under KRS 304.5-140.

(i) ***Funds held or deposited with reinsured companies, whether premiums withheld as security for unearned premium and outstanding loss reserves or advances for loss payments, are admitted assets provided they do not exceed the liabilities they secure and provided the reinsured is solvent. Any funds in excess of the liabilities, and any funds held by an insolvent reinsured shall be nonadmitted***~~[Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty]~~.

(j) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by ***the commissioner***~~[him]~~.

(k) As to a title insurer, its title plant and equipment reasonably necessary for conduct of its abstract or title insurance business, at not to exceed the cost thereof.

(l) Electronic ***data processing equipment and operating software are admitted assets to the extent they conform to the requirements of SSAP No. 4. Electronic data processing equipment and software shall be depreciated for a period not to exceed three (3) years using methods detailed in SSAP No. 19. The aggregate value of admitted electronic data processing equipment and operating system software (net of accumulated depreciation) shall be limited to three percent (3%) of the reporting entity's capital and surplus on the statutory balance sheet for its most recently filed statement with its domicilary state commissioner, adjusted to exclude electronic data processing equipment and operating system software, net deferred tax assets, and net positive goodwill.***

(m) A collateral loan or unconditional obligation for the payment of money secured by the pledge of an investment to the extent it conforms to the requirements of SSAP No. 4. The outstanding principal balance on the loan and any related accrued interest shall be recorded as an admitted asset subject to the following limitations:

1. A collateral loan determined to be impaired shall be an admitted asset equal to the fair market value of the collateral less estimated costs to obtain and sell the collateral. The difference between the net fair value of the collateral and the amount of the collateral loan shall be written off in accordance with SSAP No. 5.

2. A collateral loan secured by an asset that does not qualify as an investment shall be nonadmitted.

3. A collateral loan that exceeds the fair market value of the collateral shall be an admitted asset equal to the fair market value of the collateral. The excess shall be classified as a nonadmitted asset.

(n) Deferred tax assets as defined in SSAP No. 10.

(o) Receivable for securities as defined in SSAP No. 21.

(p) Guaranteed investment contracts as defined in SSAP No. 21.

(q) Cash value of life insurance where the reporting entity is owner and beneficiary as defined in SSAP No. 21.

(r) Other amounts receivable under reinsurance contracts as defined in SSAP No. 21.

(s) State guarantee association promissory notes.

(t)~~[and mechanical machines and related equipment constituting a data processing, record keeping, or accounting system or systems if the cost of each such system, including additions thereto is at least one hundred thousand dollars ($100,000), which cost shall be amortized in full over a period not to exceed ten (10) years. The aggregate amount invested in all such systems shall not exceed five percent (5%) of the insurer's assets.~~

~~(m)]~~ All assets~~[, whether or not consistent with the provisions of this section,]~~ as may be allowed pursuant to the ***accounting practices and procedures manual***~~[annual statement form approved by the commissioner for the kinds of insurance to be reported upon therein]~~.

(u)~~[(n)]~~ Other assets, not inconsistent with the provisions of this section, deemed by the commissioner to be available for the payment of losses and claims, at values to be determined by ***the commissioner***~~[him]~~.

(2) Admitted assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to such insurer as prescribed by the commissioner, or otherwise in his discretion. The commissioner may make official regulations prescribing the application of the provisions of this section.

Section 13. KRS 304.6-020 is amended to read as follows:

The following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names, and other like intangible assets, except as expressly permitted and as prescribed by the National Association of Insurance Commissioners' accounting practices and procedures;

(2) Advances to officers or directors (other than policy loans) whether secured or not, and advances to employees, agents and

other persons on personal security only;

(3) Stock of such insurer, owned by it, or loans secured thereby. Any such stock owned by such insurer shall be held as treasury stock and be deducted from the total issue of outstanding shares;

(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies~~.~~***. The following assets are not excluded assets under this subsection:***

(a) ~~[(other than]~~Equipment authorized under subsection (1) of KRS 304.6-010***;***~~[),]~~

(b) For~~[except in the case of]~~ title insurers such materials and plants as the insurer is expressly authorized to invest in under paragraph (k) of subsection (1) of KRS 304.6-010***;***

(c) ~~[and except, in the case of an insurer,]~~Such personal property as the insurer is permitted to hold pursuant to Subtitle 7 or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer, other than real estate used by it for home office, branch office, and similar purposes; and

(d) For health reporting entities, furniture, medical equipment, fixtures, and leasehold improvements used for the direct delivery of health care services;

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code***;***

(6) Due and accrued investment income determined to be uncollectible in accordance with SSAP No. 5;

(7) Due and accrued investment interest determined to be uncollectible in accordance with SSAP No. 5;

(8) Nonoperating system software;

(9) Leasehold improvements that do not meet the definition of assets set forth in SSAP No. 4;

(10) Deposits in suspended depositories;

(11) Receivables determined to be uncollectible or otherwise impaired in accordance with SSAP No. 5;

(12) Automobiles, airplanes, and other vehicles;

(13) A loan receivable and accrued interest, if collateralized by the reporting entity's own stock;

(14) Prepaid expenses;

(15) Any other asset that does not meet the definition of an asset, or has been specifically identified as a nonadmitted asset in the accounting practices and procedures manual.

Section 14. KRS 304.6-040 is amended to read as follows:

In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any, less the amount of shares held by the insurer as treasury stock as provided in subsection (3) of KRS 304.6-020.

(2) The amount, estimated consistent with the provisions of Subtitle 6, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

(3) With reference to life insurance policies and annuity contracts, and disability and accidental death benefits in or supplemental thereto:

(a) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to KRS 304.6-130 to 304.6-180, inclusive.

(b) Reserves for disability benefits, for both active and disabled lives required by paragraph (e) of subsection (2) of KRS 304.6-140.

(c) Reserves for accidental death benefits, required by paragraph (f) of subsection (2) of KRS 304.6-140.

(d) Any additional reserves which may be required by the commissioner consistent with applicable customary and general practice in insurance accounting as set forth in regulations promulgated by the commissioner but no such additional reserve shall be required of any company solely for contingent liabilities which may arise under any agreement, filed with and approved by the commissioner, for the assumption of liability by the company growing out of the acts of its exclusive agents within the course and scope of their representation.

(4) Reserves for health insurance required by KRS 304.6-070.

(5) With reference to insurance other than specified in subsections (3) and (4) of this section, and other than title insurance, the amount of the policy reserves computed in accordance with Subtitle 6.

(6) Taxes, expenses and other obligations due or accrued at the date of the statement.

(7) Deferred tax liabilities as defined in SSAP No. 10.

Section 15. KRS 304.6-050 is amended to read as follows:

(1) As to property, casualty, surety and mortgage guaranty insurance the insurer shall maintain an unearned premium reserve

on all policies in force.

(2) Except as provided in KRS 304.6-060 as to marine and transportation risks and in subsection (3) of this section the unearned premium reserve shall be computed, after deduction of applicable reinsurance in solvent insurers, at the insurer's election either:

(a) ***On a daily pro rata method basis on each item of premium;***[~~As equal to not less than fifty percent (50%) of the annual premiums in force,~~] or

(b) On a monthly[~~ or more frequent~~] pro rata basis as to all such reserves.

(3) As to mortgage guaranty insurers, premiums on risks written for one (1) year or less must be reserved on a monthly pro rata basis.

(4) After adopting a method for computing such reserve, an insurer shall not change methods without the approval of the insurance supervisory official of the insurer's domicile.

Section 16. KRS 304.6-090 is amended to read as follows:

For the protection of the ***policyholders against loss during periods of extreme economic contraction***[~~people of this Commonwealth and for the purpose of protecting against the effect of adverse economic cycles~~], each mortgage guaranty insurer shall ***maintain a liability referred to as a statutory contingency reserve. The statutory contingency reserve shall be a separate fund, in addition to the mortgage guaranty insurer's unearned premium reserve.***[~~establish a contingency reserve which shall be maintained for one hundred eighty (180) months. To provide for this,~~] The insurer shall annually contribute fifty percent (50%) of the earned premiums ***from mortgage guaranty insurance contracts*** to this ***liability, which shall be maintained for ten (10) years regardless of the coverage period for which premiums were paid.***[~~reserve. The earned premiums so reserved may be released, annually, after the specified time of one hundred eighty (180) months has elapsed. However,~~] Subject to the approval of the commissioner, ***the contingency***[~~this~~] reserve may be ***released in any year in which actual incurred losses exceed thirty-five percent (35%) of the corresponding earned premiums. Any reductions shall be made on a first-in, first-out basis. Changes in the reserve shall be recorded directly to unassigned funds***[~~available only for loss payments, when the loss ratio (incurred losses to premiums earned) exceeds twenty percent (20%). This amount so used shall reduce the next subsequent annual release to surplus from the established contingency reserve~~].

Section 17. KRS 304.6-100 is amended to read as follows:

(1) As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable, and to provide for the expenses of adjustment or settlement of losses and claims. The reserves shall be computed in accordance with regulations from time to time made by the commissioner, after due notice and hearing, upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

(2) Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with such regulations, are inadequate, the commissioner may require the insurer to maintain additional reserves.

(3)[~~ The minimum reserve requirements prescribed by the commissioner for unpaid losses and loss expenses incurred during each of the most recent three (3) years for coverages included in the lines of business described in the insurer's annual statement as workers' compensation, liability other than auto (B.I.), and auto liability (B.I.) shall not be less than the following: for workers' compensation, sixty five percent (65%) of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during such year; for liability other than auto (B.I.) and auto liability (B.I.), sixty percent (60%) of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during such year.~~

~~(4)~~] The commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Section 18. KRS 304.6-180 is amended to read as follows:

(1) If in any contract year the gross premium charged by any life insurer on any policy or contract, which is subject to subsection (2) of KRS 304.6-140, is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in KRS 304.6-140 and 304.6-145. Provided that for any life insurance policy issued on or after January 1, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this section shall be applied as if the method actually used in calculating the reserve for such policy were the method described in KRS 304.6-150, ignoring the second subsection of that section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with KRS 304.6-150, including the second subsection of that section, and the minimum reserve calculated in accordance with this section.

(2) When the anticipated losses, loss adjustment expenses, commissions, and the acquisition costs, and maintenance costs exceed the recorded unearned premium reserve, and any future installment premiums on existing policies, a premium deficiency reserve shall be recognized by a property and casualty insurer by recording an additional liability for the deficiency, with a corresponding charge to operations. Commission and other acquisition costs need not be considered in the premium deficiency analysis to the extent they have previously been expensed. For purposes of determining if a premium deficiency exists, insurance contracts shall be grouped in a manner consistent with how policies are marketed, serviced, and measured. A liability shall be recognized for each grouping where a premium deficiency is indicated. Deficiencies shall not be offset by anticipated profits in other policy groupings. If a premium deficiency reserve is established, disclosure of the amount of that reserve shall be made in the financial statements. If a reporting entity utilizes anticipated investment income as a factor in the premium deficiency calculation, disclosure of this shall be made in the financial statements.

(3) When the anticipated losses, loss adjustment expenses, commissions and other acquisition costs, and maintenance costs exceed the recorded unearned premium reserve, contingency reserve, and the estimated future renewal premium on existing policies, a mortgage guaranty insurer shall recognize a premium deficiency reserve by recording an additional liability for the deficiency with a corresponding charge to operations. Commissions and other acquisition costs need not be considered in the premium deficiency analysis to the extent they have been expensed. If a mortgage guaranty insurer utilizes anticipated investment income as a factor in the premium deficiency calculation, disclosure of this shall be made in the financial statements.

(4) When the expected claims payments or incurred costs, claim adjustment expenses and administration costs exceed the premiums to be collected for the remainder of a contract period, an individual or group accident and health insurer or health maintenance organization shall recognize a premium deficiency reserve by recording an additional liability for the deficiency, with a corresponding charge to operations. For purposes of determining if a premium deficiency exists, contracts shall be grouped in a manner consistent with how policies are marketed, serviced, and measured. A liability shall be recognized for each grouping where a premium deficiency is indicated. Deficiencies shall not be offset by anticipated profits in other policy groupings. Such accruals shall be made for any loss contracts, even if the contract period has not yet started.

Section 19. KRS 304.8-010 is amended to read as follows:

(1) All deposits of assets of insurers required or permitted under this code and made in this state shall be made and maintained with the ***commissioner.***[~~custodian of insurance securities of this state, hereinafter called "custodian."~~]

(2) In addition to deposits required for an insurer's authority to transact insurance in this state, an insurer may deposit and maintain with the ***commissioner***[~~custodian~~] deposit of assets:

(a) Required of an insurer by the laws of other states as prerequisite for authority to transact insurance in such other states.

(b) Required by application of the retaliatory provision, KRS 304.3-270.

(c) In such additional amounts as is permitted by this subtitle, or as expressly required by this code.

Section 20. KRS 304.8-020 is amended to read as follows:

(1) All[~~ such~~] deposits shall be held by the ***commissioner***[~~custodian~~] in trust for the benefit and protection of all of the insurer's policyholders and creditors in the United States.

(2) The deposit of a domestic insurer shall further be security for payment of taxes, assessments, forfeitures, fines, or other charges due and unpaid to this state or any other state in which the insurer has been authorized to transact insurance, and may be applied to ***the***[~~such~~] extent as may be necessary for[~~ such~~] payment.

(3) Except, that deposits required pursuant to the retaliatory provision, KRS 304.3-270, or required of a domestic insurer pursuant to the laws of another state, may be limited to ***the***[~~such~~] uses and purposes as ***are***[~~is~~] consistent with ***the***[~~such~~] provision or laws. But no[~~ such~~] deposit so required of a domestic insurer shall be allowed in lieu of or as a credit upon any deposit required of ***an***[~~such~~] insurer under this subtitle if the purpose of ***the***[~~such~~] deposit so required by another state is materially inconsistent with the purpose stated in subsection (1) of this section.

Section 21. KRS 304.8-040 is amended to read as follows:

(1) The commissioner may accept the home office real property of a domestic insurer as a part of any deposit of assets required of the insurer under this code. For ***this***[~~such~~] purpose the insurer shall convey such real property by deed to the commissioner, and the deed shall be duly recorded and deposited with the ***commissioner***[~~custodian~~].

(2) Real property so deposited shall not be sold or further encumbered by the insurer except upon advance approval of the commissioner after full submission of the purposes and detail of ***the***[~~any such~~] sale or encumbrance to the commissioner. The commissioner shall join in the execution of any deed or other document required to consummate ***the***[~~such~~] sale or encumbrance. Upon ***the***[~~any such~~] sale or encumbrance the insurer shall deposit other assets in lieu of ***this***[~~such~~] real property.

(3) ***This***[~~Such~~] real property shall be valued at its fair value as determined by the commissioner.

Section 22. KRS 304.8-090 is amended to read as follows:

(1) The commissioner shall designate at least one (1) ***bank***[~~but not more than five (5) banks~~] or trust ***company***[~~companies~~] in each county of this state containing a city of the first class or a consolidated local government and such other banks as proposed by the insurer and approved by the commissioner ***which***[~~whose vaults~~] shall be used as depositories for assets of insurers deposited under this code.

(2) ***Any expense associated with***[~~Each insurer~~] depositing assets ***under this chapter*** shall ***be borne by the insurer***[~~, at its own expense, rent space therefor in the vaults of the banks or trust companies so designated~~].

Section 23. KRS 304.8-095 is amended to read as follows:

Notwithstanding any other provision of law, the commissioner may cause any or all deposits of assets of insurers required or permitted under this code and maintained in this state to be made and maintained in trust with depositories designated pursuant to KRS 304.8-090(1) under trust agreements to which[~~ such~~] depositories, insurers, and the commissioner are parties, for the purpose of this subtitle. ***These***[~~Such~~] trust agreements shall provide with respect to deposits thereunder provisions, conditions and stipulations corresponding to those applicable to other deposits under this subtitle and shall require [~~such ~~]depositories to perform the same duties with respect to deposits thereunder as the ***commissioner***[~~custodian of insurance securities~~] is required to perform with respect to other deposits under the subtitle. Insurers who have made deposits under ***these***[~~such~~] trust agreements shall be relieved of all other obligations under this subtitle with respect to the assets deposited thereunder.

Section 24. KRS 304.8-100 is amended to read as follows:

As to each insurer making or having a deposit the commissioner[~~ and custodian~~] shall keep a complete record thereof showing:

(1) The particular assets so deposited.

(2) The face value, if any, of any[~~ such~~] asset, and the value thereof as determined by the commissioner.

(3) Date of deposit, and place thereof.

(4) Assets withdrawn, date thereof, value of assets so withdrawn, and the name and address of any person to whom ***the***[~~such~~] assets were delivered.

(5) ***All***[~~Such~~] other information as the commissioner deems necessary.

Section 25. KRS 304.8-110 is amended to read as follows:

(1) The commissioner may at any time inventory assets on deposit as to any insurer. Upon request of the insurer the commissioner shall make[~~ such~~] an inventory at the insurer's expense, and shall furnish the insurer a copy thereof. All inventories shall be made in the presence of the commissioner and two (2) representatives of the insurer designated for the purpose by its board of directors.

(2) Upon request, the ***commissioner***[~~custodian~~] shall give to any insurer depositing assets a certificate thereof describing the assets and setting forth their par value, if any, and their value, which valuation shall be ***determined by***[~~subject to the approval of~~] the commissioner.

Section 26. KRS 304.8-150 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every domestic life insurer shall, within ninety (90) days after the net cash value of each policy in force has been ascertained as required by law, deposit with the ***commissioner***[~~custodian of insurance securities~~] for the security and benefit of its policyholders, assets in an amount which, together with ***the***[~~such~~] sums as may be deposited by it with other states and governments by the requirements of their laws, shall be not less than the ascertained valuation of all policies in force less any sums that it has advanced from its legal reserve to its policyholders on the pledge to it of their policies and any accumulations thereon.

(2) If the legal reserve or the aggregate ascertained valuation of all policies in force in any domestic life insurer equals $20,000,000, no further deposit shall be required of the insurer so long as the legal reserve remains at or above $20,000,000, unless the insurer elects to represent on its policies or otherwise that the legal reserve or cash value of its policies thereafter written is on deposit with this state or one or more of its designated agencies, in which event the insurer shall deposit assets as above set out in an amount equal to the ascertained valuation of all of its policies in force at the time the representation is made.

Section 27. KRS 304.8-170 is amended to read as follows:

(1) Any[~~ such~~] required deposit shall be released, in addition to circumstances already provided for, in these instances only:

  (a) Upon extinguishment of substantially all liabilities of the insurer for the security of which the deposit is held, by reinsurance contract or otherwise.

  (b) If ***the***[~~such~~] deposit is no longer required under this code.

  (c) If the deposit was made pursuant to the retaliatory provision, KRS 304.3-270, it shall be released in whole or in part when no longer so required.

  (d) Upon proper order of a court of competent jurisdiction the deposit shall be released to the receiver, conservator, rehabilitator, or liquidator of the insurer.

(2) No[~~ such~~] release shall be made except on application to and written order of the commissioner made upon proof satisfactory to ***the commissioner***[~~him~~] of the existence of one of ***the***[~~such~~] grounds therefor.[~~ The custodian shall release the deposit upon such order of the commissioner.~~] The commissioner shall not have any personal liability for any[~~ such~~] release of any deposit or part thereof so ordered by ***the commissioner***[~~him~~] in good faith.

(3) All release of deposits or any part thereof shall be made to the person then entitled thereto upon proof of right satisfactory to the commissioner.

Section 28. KRS 304.8-180 is amended to read as follows:

(1) Access shall not be had to the vaults wherein the assets are deposited, nor shall any such assets be removed therefrom, except upon the written order of at least two (2) officers authorized for the purpose by the insurer's board of directors or other governing body, which order must have been approved by the commissioner.

(2) The vaults wherein assets are deposited shall be opened and assets deposited or removed only in the joint presence of the ***commissioner***[~~custodian~~] and two (2) representatives of the insurer authorized for the purpose by the insurer's board of directors or other governing body.

(3) Except, that the vaults may be opened and assets deposited or removed under the direction and upon the order of a court of competent jurisdiction, and in the presence of the ***commissioner***[~~custodian~~].

Section 29. KRS 304.8-190 is amended to read as follows:

(1) Insurers maintaining deposits of assets in this state under this subtitle, shall pay into the examination expense revolving fund as provided in Subtitle 2 of this chapter, moneys sufficient to pay travel[~~, compensation~~] and other necessary expenses of the ***commissioner related to the maintenance, valuation, protection, or administration of the insurer's deposit***[~~custodian of insurance securities, through the office of the commissioner of insurance~~].

(2) The portion of ***the***[~~such~~] expense fund to be paid by each such insurer shall be in the same approximate proportion as the amount ***the***[~~such~~] insurer had on deposit on December 31 of the preceding year bears to the total such deposits of all insurers as of December 31 of the preceding year. The commissioner shall assess each insurer for its proportionate share of ***the***[~~such~~] expense fund. The minimum charge for each insurer shall be five dollars ($5).

Section 30. KRS 304.13-390 is amended to read as follows:

If the state fire marshal gives notice that any authorized insurer has failed to comply with the provisions of KRS 227.250, the commissioner may revoke or suspend the insurer's certificate of authority.

[~~(1) The commissioner shall ascertain as soon as practicable the annual fire loss in each municipality in the Commonwealth; obtain, make and maintain a record thereof and collect such data with respect thereto as will enable the commissioner to classify the fire losses in each municipality in the Commonwealth, the causes thereof, and the amount of premiums collected therefor for each class of risks and the amount paid thereon, in such manner as will aid in determining equitable insurance rates, methods of reducing such fire losses and reducing the insurance rates for risks in each municipality in the Commonwealth as provided in this section.~~

~~(2) The commissioner shall compile for each municipality in Kentucky a list of the insured fire losses in excess of five hundred dollars ($500) per loss paid in that municipality for the preceding statistical year.~~

~~(3) The list shall include:~~

~~(a) The names of persons recovering insured losses;~~

~~(b) The addresses or locations where the losses occurred; and~~

~~(c) The amount paid by the insurance company on each loss.~~

~~(4) The commissioner shall obtain the information to make the lists from insurance company reports of individual losses during the statistical year, either directly from such insurance companies or from such lawful rating organization or agency of which such insurance companies may be a member or subscriber.~~

~~(5) Each municipality shall examine its list to determine the losses actually occurring in its limits and shall make a report to the fire marshal, which report shall include:~~

~~(a) A list of the losses that occurred within the limits of the municipality;~~

~~(b) A list of the losses not occurring within the municipality; and~~

~~(c) Other evidence essential to establishing the losses in the municipality. The fire marshal shall transmit a copy of each municipality's report to the commissioner.~~

~~(6) The commissioner shall make such changes or corrections as he shall determine to be necessary in order to correct the list of insured fire losses paid in a particular municipality.~~]

Section 31. KRS 304.24-300 is amended to read as follows:

(1) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the

agreement. No commission or promotion expense shall be paid in connection with any such loan, except that if public offering and sale is made of the loan securities, the insurer may pay the reasonable costs thereof approved by the commissioner.

(2) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any setoff; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid. ***A surplus note shall be reported as surplus and not as debt only if the surplus note contains the following provisions:***

(a) Subordination to policyholder;

(b) Subordination to claimant and beneficiary claims;

(c) Subordination to all other classes of creditors other than surplus note holders; and

(d) Interest payments and principal repayments require prior approval of the state of domicile.

(3) Any such loan shall be subject to the commissioner's approval. The insurer shall in advance of the loan, file with the commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless within fifteen (15) days after date of such filing the insurer is notified of the commissioner's disapproval and the reasons therefor. The commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

(4) Any such loan or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made unless approved in advance by the commissioner.

(5) This section shall not apply to other kinds of loans obtained by the insurer in ordinary course of business, nor to loans secured by pledge or mortgage of assets.

Section 32. KRS 304.24-500 is amended to read as follows:

(1) The purpose of this section is to:

(a) Provide a means whereby any insurer organized under the laws of any other state may become a domestic insurer;

(b) Provide a means for any domestic insurer to transfer its domicile to another state; and

(c) Provide a means for the continuation of a certificate of authority and other approvals pertaining to any foreign insurer which transfers its corporate domicile to another state by merger, consolidation, or any other lawful method.

(2) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may***, upon approval of the commissioner,*** become a domestic insurer by complying with all of the requirements of this chapter relating to the organization and authorization of a domestic insurer of the same type and by designating its principal place of business at a place in this state. ***The***[~~Such a~~] domestic insurer ***shall***[~~will~~] be entitled to like certificates of authority to transact business in this state, and shall be subject to the authority and jurisdiction of this state.

(3) Any domestic insurer may, upon approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon ***the***[~~such a~~] transfer ***the***[~~such an~~] insurer shall cease to be a domestic insurer, and shall be authorized to transact insurance business in this state if qualified as a foreign insurer. The commissioner shall approve ***the***[~~any such~~] proposed transfer unless ***the commissioner***[~~he~~] shall determine ***the***[~~such~~] transfer is not in the interest of the policyholders of this state.

(4) The certificate of authority, agents' appointments and licenses, rates, and other items which the commissioner allows, in ***the commissioner's***[~~his~~] discretion, which are in existence at the time any insurer authorized to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, or merger pursuant to KRS 271B.11-070, or any other lawful method, shall continue in full force and effect upon ***the***[~~such~~] transfer if ***the***[~~such~~] insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the insurer or its new location unless so ordered by the commissioner. Every transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner. However, every transferring insurer shall notify the commissioner in writing of the details of the proposed transfer and shall file promptly appropriate amendments to corporate documents required to be filed with the commissioner.

(5) (a) Any insurer transferring its domicile in accordance with subsections (2) or (3) of this section shall file an application for redomestication and transfer of domicile with the commissioner. This transfer of domicile must be approved by order of the commissioner. If the commissioner does not approve the transfer of domicile, the applicant insurer may request a hearing in accordance with KRS 304.2-310(2)(b).

(b) An applicant filing to become a domestic insurer in accordance with subsection (2) of this section shall include a notice of transfer of domicile to the Secretary of State and the articles, amended articles, or restated articles of

incorporation in compliance with KRS 271B.2-020.

(c) An application filed by a domestic insurer to transfer its domicile to another state in accordance with subsection (3) of this section shall include a copy of the order approving the redomestication issued by the new state of domicile.

Section 33. KRS 304.27-070 is amended to read as follows:

(1) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(2) The commissioner may refuse, suspend or revoke the certificate of authority, in addition to other grounds therefor *including those provided in Subtitles 2 and 3 of this chapter*, for failure of the attorney to comply with any applicable provision of this code.

Section 34. KRS 304.28-070 is amended to read as follows:

Action on any policy or contract of insurance made by the attorney for the underwriters may be brought against the attorney or against the attorney and the underwriters or any of them. In *an*[~~such~~] action, summons and process shall be served on either the *Secretary of State as provided in KRS 304.3-230*[~~commissioner~~] or on the attorney and when so served shall have the same force and effect as if served on the attorney and on each underwriter personally. A judgment in any such action against the attorney or against any of the underwriters shall be binding upon and be a judgment against each and all of the underwriters as their several liabilities may appear in the contract of insurance on which the action is brought.

Section 35. KRS 304.29-281 is amended to read as follows:

Societies shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices.

[~~(1) The commissioner, or any person he may appoint, may examine any domestic, foreign or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign or alien insurers. Requirements of notice and an opportunity to respond before findings are made public, as provided in the laws regulating insurers, shall also be applicable to the examination of societies.~~

~~(2) The expense of each examination and of each valuation, including compensation and actual expense of examiners shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.~~]

Section 36. KRS 304.30-060 is amended to read as follows:

(1) Every licensee shall maintain records of its premium finance transactions and the [~~said~~]records shall be open to examination and investigation by the commissioner.[~~ The commissioner may at any time require any licensee to bring such records as he may direct to the commissioner's office for examination. Any examination or any part of the examination of any organization subject to the provisions of Subtitle 30 of this chapter shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined as specified in Subtitle 2 of this chapter.~~]

(2) Every licensee shall preserve its records of[~~ such~~] premium finance transactions, including cards used in a card system, for at least *five (5)*[~~three (3)~~] years after making the final entry in respect to any premium finance agreement. The preservation of records in photographic form shall constitute compliance with this requirement.

(3) For the purpose of determining market conduct, business practices, financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records and assets of each licensed premium finance company as often as reasonably necessary.

(4) Premium finance companies shall be subject to the provisions of KRS 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices.

SECTION 37. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the certificate of authority of a corporation is suspended, the corporation shall not, during the period of suspension, enroll any additional subscribers or members except newborn children or other newly acquired dependents of existing subscribers or members, and shall not engage in any advertising or solicitation whatsoever.

(2) If the certificate of authority of a corporation is revoked, the corporation shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the corporation. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit further operation of the corporation as the commissioner may find to be in the best interest of subscribers or members, to the end that subscribers or members will be afforded the greatest practical opportunity to obtain continuing coverage. If the commissioner permits further operation, the corporation shall continue to collect the dues and fees required of subscribers or members.

Section 38. KRS 304.32-030 is amended to read as follows:

(1) Any nonprofit corporation organized under the laws of this state for the purpose of establishing, maintaining, and operating a nonprofit plan, whereby hospital care, medical-surgical care, dental care, and other health services are made

available to persons who become subscribers to ***a***[~~such~~] plan or plans under a contract with the corporation, shall be subject to and be governed by the provisions of this subtitle, and shall be exempt from all other provisions of this code, except as[~~ herein~~] expressly provided in ***this subtitle***[~~KRS 304.32-270~~], and no insurance law hereafter enacted shall be deemed to apply to ***these***[~~such~~] corporations unless they be specifically referred to therein.

(2) Except as provided in KRS 304.32-300 to 304.32-320, the provisions of this subtitle shall not apply to any employer's self-insured health plan or service established and maintained solely for its members and their immediate families, or to any self-insured health plan or service established, maintained, and insured jointly by any employer and any labor organization or organizations.

Section 39. KRS 304.32-140 is amended to read as follows:

(1) No corporation subject to provisions of this subtitle shall be permitted to do any business in this state unless, in addition to the other requirements of law, it shall have and maintain liquid reserves in an amount not less than five percent (5%) of the corporation's subscription income collected in the preceding year not exceeding two million dollars ($2,000,000), plus two and one-half percent (2.5%) of income exceeding two million dollars ($2,000,000) but not exceeding ten million dollars ($10,000,000), plus one percent (1%) of income exceeding ten million dollars ($10,000,000); but in no event shall reserves be less than five hundred thousand dollars ($500,000). All corporations subject to the provisions of this subtitle shall place on deposit with the ***commissioner***[~~custodian of insurance securities~~] a guarantee fund of cash or approved securities in an amount determined by this formula, but not less than five hundred thousand dollars ($500,000) nor more than one million five hundred thousand dollars ($1,500,000). Any amount of liquid reserves required by this subsection in excess of one million five hundred thousand dollars ($1,500,000) shall be maintained by the corporation at all times, but shall not be required to be placed on deposit, provided that ***the***[~~such a~~] corporation shall be allowed a period of five (5) years after July 15, 1982, to establish the liquid reserves and deposit the guarantee fund with the commissioner. A corporation subject to the provisions of this subtitle shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the commissioner.

(2) The cash or securities representing the guarantee fund required by this section shall be acceptable to the ***commissioner***[~~custodian of insurance securities~~] and ***the***[~~such~~] securities shall be negotiable securities.

(3) The investments of a corporation subject to the provisions of this subtitle shall be the same kind of investments which life insurance companies are authorized to have.

Section 40. KRS 304.32-210 is amended to read as follows:

(1) Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices[~~The commissioner, or any person authorized by him, shall have power to examine the financial condition, affairs, and management of any corporation subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the corporation, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any corporation, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each corporation subject to the provisions of this subtitle at least once every four (4) years~~].

(2) Each corporation subject to the provisions of this subtitle may own and invest or have invested any of its funds in its principal office building not to exceed an amount which would reduce its surplus, exclusive of the investment, below $50,000, unless approved by the commissioner.

Section 41. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 7 -- Investments;

(4) Subtitle 8 -- Administration of Deposits;

(5) Subtitle 12 -- Trade Practices and Frauds;

(6) Subtitle 25 -- Continuity of Management;

(7) Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(8) Subtitle 18 -- KRS 304.18-110, 304.18-120 -- Group Conversion and KRS 304.18-045;

(9) Subtitle 4 -- Fees and Taxes;

(10) Subtitle 99 -- Penalties;

(11) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(12) Subtitle 17A -- Health Benefit Plans;

(13) Subtitle 17B -- Kentucky Access;[~~ and~~]

(14) Subtitle 9 -- Agents, Consultants, Solicitors and Adjusters***; and***

(15) Subtitle 3 -- Authorization of Insurers and General Requirements.

Section 42. KRS 304.33-110 is amended to read as follows:

(1) Whenever the commissioner has reasonable cause to believe, and determines[~~, after a hearing held as prescribed in subsection (2) of this section,~~] that any insurer has committed or engaged in, or is committing or engaging in or is about to commit or engage in any act, practice, or transaction that would subject it to formal delinquency proceedings under this subtitle, he may make and serve upon the insurer and any other persons involved an emergency order in accordance with KRS 13B.125, other than seizure orders under KRS 304.33-120, as is reasonably necessary to correct, eliminate, or remedy the conduct, condition, or ground. If the emergency order is for a restoration of or addition to capital, it shall be carried out as provided in KRS 304.24-350.

(2) The commissioner may apply for and any court of general jurisdiction may grant, restraining orders, temporary and permanent injunctions, and other orders as are deemed necessary to enforce an emergency order.

Section 43. KRS 304.38-120 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, 304.2-300, and Subtitle 2 of this chapter for determining financial condition, market conduct, and business practices.

[~~(1) The commissioner, or any person authorized by him, shall have power to examine the financial condition, affairs, and management of any organization subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any organization, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each organization subject to the provisions of this subtitle at least once every three (3) years.~~

~~(2) Any examination, or any part of the examination of any organization subject to the provisions of this subtitle, shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined as specified in Subtitle 2 of this chapter.~~]

Section 44. KRS 304.38-130 is amended to read as follows:

(1) The commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this subtitle if ***the commissioner finds that any of the conditions exist for which the commissioner could suspend or revoke a certificate of authority as provided in Subtitles 2 and 3 of this chapter or if the commissioner***[~~he~~] finds that any of the following conditions exist:

   (a) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under KRS 304.38-040, unless amendments to such submissions have been filed with and approved by the commissioner;

   (b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of KRS 304.38-050 ***or Subtitle 17A of this chapter***;

   (c) The health maintenance organization does not provide or arrange for health care services as approved by the commissioner in KRS 304.38-050(1)(a);

   (d) The certificate of need and licensure board certifies to the commissioner that the health maintenance organization fails to meet the requirements of the board or that the health maintenance organization is unable to fulfill its obligations to furnish health care services;

   (e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

   (f) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

   (g) The continued operation of the health maintenance organization would be hazardous to its enrollees;

   (h) The health maintenance organization has otherwise failed to substantially comply with this subtitle.

(2) ***If***[~~A certificate of authority shall be suspended or revoked only after compliance with the hearing procedures set out in Subtitle 2.~~

~~(3) When~~] the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of ***the***[~~such~~] suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(3)[~~(4)~~] ***If***[~~When~~] the certificate of authority of a health maintenance organization is revoked, ***the***[~~such~~] organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of ***the***[~~such~~] organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit ***the***[~~such~~]

further operation of the organization as ***the commissioner***[~~he~~] may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage. If the commissioner permits such further operation the health maintenance organization will continue to collect the periodic prepayments required of enrollees.

Section 45. KRS 304.38-170 is amended to read as follows:

(1) All applications, filings, and reports required under this subtitle shall be treated as public documents, except as otherwise provided for herein.

(2) The[~~ insurance law and the~~] nonprofit hospital, medical-surgical, dental, and health service corporation law of this state shall not be applicable to any health maintenance organization granted a certificate of authority under this subtitle. This provision does not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this subtitle.

Section 46. KRS 136.410 is amended to read as follows:

[~~(1)~~]Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

[~~(2) In addition to the requirements of subsection (1) of this section, a copy of the statement of all amounts paid to the bail bondsman or his representatives, whether designated as premiums or otherwise, shall be filed with the commissioner of insurance at the same time the bail bondsman files his report of assets and liabilities as required by KRS 304.34-050(1).~~]

Section 47. KRS 304.2-195 is amended to read as follows:

(1) The commissioner may enter into interstate compacts for issuing certificates of authority to insurers if the commissioner determines that:

(a) Each state participating in the compact has requirements for issuing certificates of authority that provide protections substantially similar to or greater than the requirements of this subtitle; or

(b) The interstate compact contains requirements for issuing certificates of authority that provide protections substantially similar to or greater than the requirements of this subtitle.

(2) In lieu of the documents required in KRS 304.3-150[~~(1) to (14)~~] to be filed with an application for certificate of authority, the commissioner may accept documentation in accordance with the terms of the interstate compact.

(3) The commissioner may issue certificates of authority to insurers in accordance with the terms of the interstate compact.

Section 48. KRS 431.510 is amended to read as follows:

(1) It shall be unlawful for any person to engage in the business of bail bondsman as defined in ***subsection (3) of this section***[~~KRS 304.34-010(1)~~], or to otherwise for compensation or other consideration:

(a) Furnish bail or funds or property to serve as bail; or

(b) Make bonds or enter into undertakings as surety;

for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment or death, before any of the courts of this state, including city courts, or to secure the payment of fines imposed and of costs assessed by such courts upon a final disposition.

(2) Nothing contained herein shall serve to release any bail bondsman heretofore licensed by this state from the obligation of undischarged bail bond liability existing on June 19, 1976.

(3) ***"Bail bondsman" shall mean any person, partnership or corporation engaged for profit in the business of furnishing bail, making bonds or entering into undertakings, as surety, for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment, or death, before any of the courts of this state, or securing the payment of fines imposed and of costs assessed by such courts upon final disposition thereof, and the business of a bail bondsman shall be limited to the acts, transactions and undertakings described in this subsection and to no other***[~~Within thirty (30) days from June 19, 1976, every bail bondsman heretofore licensed under Chapter 304, Subtitle 34, shall furnish to the commissioner of the Department of Insurance a certified copy of his daily bond register required by KRS 304.34-070, and the commissioner shall retain the securities of each bail bondsman deposited with the custodian of insurance securities until all undertakings shall have been paid and satisfied in full~~].

(4) KRS 431.510 to 431.550 shall not be construed to limit or repeal KRS 431.021 or to prevent licensed insurers providing security required by Subtitle 39 of KRS Chapter 304 and nonprofit associations from posting or causing to be posted by licensed insurers security or acting as surety for their insureds or members for an offense arising from the operation of a motor vehicle, provided that such posting of security or acting as surety is merely incidental to the terms and conditions of an insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

Section 49. The following KRS sections are repealed:

304.8-060 Custodian of insurance securities.

304.8-070 Custodian's duties, bond.

304.13-043 Hearings on insurance for political subdivisions.

304.32-220 Examination expense.

304.32-230 Hearings -- Appeal.

304.34-010 Definitions for KRS 304.34-020 to 304.34-140.

304.34-020 Commissioner's power to regulate and enforce -- Application for license.

304.34-030 Bail bondsman's license required.

304.34-040 Security required of bondsmen.

304.34-042 Return of securities deposited by bail bondsman.

304.34-045 Filing of rate schedules required -- Premiums not to exceed approved rates.

304.34-050 Actions required of licensed bondsmen.

304.34-060 Affidavit as to consideration for bail bond.

304.34-070 Records required of bondsmen.

304.34-075 Semiannual reports by bondsmen -- Contents.

304.34-080 Actions prohibited to bondsmen -- Persons prohibited from being bondsmen.

304.34-090 Causes for failure to renew, suspension, or revocation of license.

304.34-100 Procedure on failure to renew, suspension, or revocation of license.

304.34-110 Provisions as to suspension or revocation.

304.34-120 Action on bondsman's license involves other insurance licenses.

304.34-130 Administrative penalties.

304.34-140 Permissible city ordinances.

304.34-160 Commissioner to notify clerks of licensed bondsmen's names, suspensions, revocations, reinstatements -- Clerk's reports.

304.99-030 Penalties for violation of bail bondsman licensing law.

HB 498, AN ACT relating to the Kentucky Children's Health Insurance Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.6485 is amended to read as follows:

(1) The Cabinet for Health Services shall prepare a state child health plan meeting the requirements of Title XXI of the Federal Social Security Act, for submission to the Secretary of the United States Department of Health and Human Services within such time as will permit the state to receive the maximum amounts of federal matching funds available under Title XXI. The cabinet shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the following:

(a) The eligibility criteria for children covered by the Kentucky Children's Health Insurance Program. However, no person eligible for services under Title XIX of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be eligible for services under the Kentucky Children's Health Insurance Program except to the extent that Title XIX coverage is expanded by KRS 205.6481 to 205.6495 and KRS 304.17A-340;

(b) The schedule of benefits to be covered by the Kentucky Children's Health Insurance Program, which shall include preventive services, vision services including glasses, and dental services including at least sealants, extractions, and fillings, and which shall be at least equivalent to one (1) of the following:

1. The standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefit Plan established by U.S.C. sec. 8903(1);

2. A mid-range health benefit coverage plan that is offered and generally available to state employees; or

3. Health insurance coverage offered by a health maintenance organization that has the largest insured

commercial, non-Medicaid enrollment of covered lives in the state;

(c) *1.* The premium contribution per family of health insurance coverage available under the Kentucky Children's Health Insurance Program with provisions for the payment of premium contributions by families of children eligible for coverage by the program based upon a sliding scale ***that may consider***[~~relating to~~] family income ***and the number of children covered***. ***Monthly*** premium contributions shall[~~ be based on a six (6) month period~~] not[~~ to~~] exceed:

a.[~~1.~~] Ten dollars ($10), to be paid by a family with income between one hundred ***one*** percent ***(101%)***[~~(100%)~~] to one hundred ***fifty***[~~thirty-three~~] percent ***(150%)***[~~(133%)~~] of the federal poverty level; ***and***

b.[~~2.~~] ***Twenty-five***[~~Twenty~~] dollars ***($25)***[~~($20)~~], to be paid by a family with income between one hundred ***fifty-one***[~~thirty-four~~] percent ***(151%)***[~~(134%)~~] to ***two hundred***[~~one hundred forty-nine~~] percent ***(200%)***[~~(149%)~~] of the federal poverty level***.***

2. ***Families of eligible children may pay premiums in advance on a quarterly or semi-annual basis. The cabinet may establish premium discounts not to exceed ten percent (10%) for families who pay quarterly or semi-annually. The cabinet shall establish a sixty (60) day waiting period to reenroll in KCHIP following cancellation of coverage due to nonpayment of premiums***;[~~ and~~

~~3. One hundred twenty dollars ($120), to be paid by a family with income between one hundred fifty percent (150%) to two hundred percent (200%) of the federal poverty level, and which may be made on a partial payment plan of twenty dollars ($20) per month or sixty dollars ($60) per quarter;~~]

(d) The level of copayments for services provided under the Kentucky Children's Health Insurance Program that shall not exceed those allowed by federal law; and

(e) The criteria for health services providers and insurers wishing to contract with the Commonwealth to provide the children's health insurance coverage. However, the cabinet shall provide, in any contracting process for the preventive health insurance program, the opportunity for a public health department to bid on preventive health services to eligible children within the public health department's service area. A public health department shall not be disqualified from bidding because the department does not currently offer all the services required by paragraph (b) of this subsection. The criteria shall be set forth in administrative regulations under KRS Chapter 13A and shall maximize competition among the providers and insurers. The Cabinet for Finance and Administration shall provide oversight over contracting policies and procedures to assure that the number of applicants for contracts is maximized.

(2) Within twelve (12) months of federal approval of the state's Title XXI child health plan, the Cabinet for Health Services shall assure that a KCHIP program is available to all eligible children in all regions of the state. If necessary, in order to meet this assurance, the cabinet shall institute its own program.

(3) KCHIP recipients shall have direct access without a referral from any gatekeeper primary care provider to dentists for covered primary dental services and to optometrists and ophthalmologists for covered primary eye and vision services.

Section 2. The following KRS section is repealed:

205.6497 Required provisions in plans.

The Committee on Licensing and Occupations reported **HB 481,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 481, AN ACT relating to regulation of athletic agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 18 of this Act may be cited as the Uniform Athlete Agents Act.

SECTION 2. KRS 164.680 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act, unless the context requires otherwise:

(1) ***"Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;***

(2) ***"Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization;***

(3) ***"Athletic director" means an individual responsible for administering the overall athletic program of an educational***

institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;

(4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;

(5) "Division" means the Division of Occupations and Professions in the Finance and Administration Cabinet;

(6) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;

(7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;

(9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(11) "Registration" means registration as an athlete agent pursuant to Sections 1 to 18 of this Act;

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

SECTION 3. KRS 164.681 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) By acting as an athlete agent in this state, a nonresident individual appoints the Division of Occupations and Professions as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.

(2) The division may issue subpoenas for any material that is relevant to the administration of Sections 1 to 18 of this Act.

(3) The division may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out the provisions of Sections 1 to 18 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under Section 6 or subsection (3) of Section 7 of this Act.

(2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

  (a) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and

  (b) Within seven (7) days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(3) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under contract.

SECTION 5. KRS 164.682 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An applicant for registration shall submit an application for registration to the division in a form prescribed by the division. An application filed under this section is a public record. The application must be in the name of an individual, and except as otherwise provided in subsection (2) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:

  (a) The name of the applicant and the address of the applicant's principal place of business;

  (b) The name of the applicant's business or employer, if applicable;

  (c) Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of this application;

  (d) A description of the applicant's:

    1. Formal training as an athlete;

2. Practical experience as an athlete agent; and

3. Educational background relating to the applicant's activities as an athlete agent;

(e) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;

(f) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;

(g) The names and addresses of all persons who are:

1. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and

2. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;

(h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;

(i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;

(j) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

(k) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and

(l) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state.

(2) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. The division shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

(a) Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;

(b) Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

(c) Was signed by the applicant under penalty of perjury.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, the division shall issue a certificate of registration to an individual who complies with subsection (1) of Section 5 of this Act or whose application has been accepted under subsection (2) of Section 5 of this Act.

(2) The division may refuse to issue a certificate of registration if the division determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the division may consider whether the applicant has:

(a) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;

(b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(d) Engaged in conduct prohibited by Section 13 of this Act;

(e) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;

(f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or

(g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(3) In making a determination under subsection (2) of this section, the division shall consider:

(a) How recently the conduct occurred;

(b) The nature of the conduct and the context in which it occurred; and

(c) Any other relevant conduct of the applicant.

(4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the division. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The division shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

(a) Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;

(b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and

(c) Was signed by the applicant under penalty of perjury.

(6) A certificate of registration or a renewal of registration is valid for one (1) year.

SECTION 7. KRS 164.687 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) The division may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under subsection (2) of Section 6 of this Act.

(2) The division may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.

(3) The division may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

(1) An initial application for registration fee determined by the division not to exceed three hundred dollars ($300);

(2) An annual renewal fee determined by the division not to exceed three hundred dollars ($300); or

(3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the division not to exceed two hundred fifty dollars ($250).

SECTION 9. KRS 164.684 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(2) An agency contract must state or contain:

(a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;

(b) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;

(c) A description of any expenses that the student-athlete agrees to reimburse;

(d) A description of the services to be provided to the student-athlete;

(e) The duration of the contract; and

(f) The date of execution.

(3) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(4) An agency contract that does not conform to this section is voidable by the student athlete. If a student-athlete voids an

agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(5) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

SECTION 10. KRS 164.685 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(2) Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.

(2) A student-athlete may not waive the right to cancel an agency contract.

(3) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) An athlete agent shall retain the following records for a period of five (5) years:

(a) The name and address of each individual represented by the athlete agent;

(b) Any agency contract entered into by the athlete agent; and

(c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(2) Records required to be retained in subsection (1) of this section are open to inspection by the division during normal business hours.

SECTION 13. KRS 164.683 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(a) Give any materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(2) An athlete agent shall not intentionally:

(a) Initiate contact with a student-athlete unless registered under Sections 1 to 18 of this Act;

(b) Refuse or fail to retain or permit inspection of the records required to be retained by Section 12 of this Act;

(c) Fail to register when required by Section 4 of this Act;

(d) Provide materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate an agency contract; or

(f) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

SECTION 14. KRS 164.689 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with *Sections 1 to 18 of this Act*[~~KRS 164.680 to 164.687~~] shall be guilty of a Class A misdemeanor.

(2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in *Section 13 of this Act*[~~KRS 164.683~~] shall be guilty of a Class D felony.

(3) Any registered athlete agent who knowingly and willfully violates any provision of *Section 9 of this Act*[~~KRS 164.684~~] shall be guilty of a Class D felony.

(4) A student athlete who knowingly and willfully violates any provision of *Section 10 of this Act*[~~KRS 164.685 or KRS~~

~~164.684(5)]~~ shall be guilty of a Class A misdemeanor.

(5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under *Section 15 of this Act*~~[KRS 164.686]~~ shall be guilty of a Class D felony.

SECTION 15. KRS 164.686 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of Sections 1 to 18 of this Act. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

(2) Damages of an educational institution under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of Sections 1 to 18 of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

(4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(5) The division may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars ($25,000) for a violation of Sections 1 to 18 of this Act.

(6) Sections 1 to 18 of this Act does not restrict rights, remedies, or defenses of any person under law or equity.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 18 of this Act governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

If any provision of Sections 1 to 18 of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of Sections 1 to 18 of this Act which can be given effect without the invalid provision or application, and to this end the provisions of Sections 1 to 18 of this Act are severable.

The Committee Substitute to **HB 481** is as follows:

HB 481, AN ACT relating to regulation of athletic agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 18 of this Act may be cited as the Uniform Athlete Agents Act.

SECTION 2. KRS 164.680 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act, unless the context requires otherwise:

(1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;

(2) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization;

(3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;

(4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;

(5) "Division" means the Division of Occupations and Professions in the Finance and Administration Cabinet;

(6) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to

use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;

(7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;

(8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;

(9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(11) "Registration" means registration as an athlete agent pursuant to Sections 1 to 18 of this Act;

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

SECTION 3. KRS 164.681 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) By acting as an athlete agent in this state, a nonresident individual appoints the Division of Occupations and Professions as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.

(2) The division may issue subpoenas for any material that is relevant to the administration of Sections 1 to 18 of this Act.

(3) The division may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out the provisions of Sections 1 to 18 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under Section 6 or subsection (3) of Section 7 of this Act.

(2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

(a) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and

(b) Within seven (7) days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(3) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under contract.

SECTION 5. KRS 164.682 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An applicant for registration shall submit an application for registration to the division in a form prescribed by the division. An application filed under this section is a public record. The application must be in the name of an individual, and except as otherwise provided in subsection (2) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:

(a) The name of the applicant and the address of the applicant's principal place of business;

(b) The name of the applicant's business or employer, if applicable;

(c) Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of this application;

(d) A description of the applicant's:

1. Formal training as an athlete;

2. Practical experience as an athlete agent; and

3. Educational background relating to the applicant's activities as an athlete agent;

(e) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;

(f) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;

(g) The names and addresses of all persons who are:

1. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and

2. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;

(h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;

(i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;

(j) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

(k) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and

(l) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state.

(2) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. The division shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

(a) Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;

(b) Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

(c) Was signed by the applicant under penalty of perjury.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, the division shall issue a certificate of registration to an individual who complies with subsection (1) of Section 5 of this Act or whose application has been accepted under subsection (2) of Section 5 of this Act.

(2) The division may refuse to issue a certificate of registration if the division determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the division may consider whether the applicant has:

(a) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;

(b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(d) Engaged in conduct prohibited by Section 13 of this Act;

(e) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;

(f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or

(g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(3) In making a determination under subsection (2) of this section, the division shall consider:

(a) How recently the conduct occurred;

(b) The nature of the conduct and the context in which it occurred; and

(c) Any other relevant conduct of the applicant.

(4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the division. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The division shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

- *(a) Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;*
- *(b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and*
- *(c) Was signed by the applicant under penalty of perjury.*

(6) A certificate of registration or a renewal of registration is valid for one (1) year.

SECTION 7. KRS 164.687 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) The division may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under subsection (2) of Section 6 of this Act.

(2) The division may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.

(3) The division may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

(1) An initial application for registration fee determined by the division not to exceed three hundred dollars ($300);

(2) An annual renewal fee determined by the division not to exceed three hundred dollars ($300); or

(3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the division not to exceed two hundred fifty dollars ($250).

SECTION 9. KRS 164.684 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(2) An agency contract must state or contain:

- *(a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;*
- *(b) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;*
- *(c) A description of any expenses that the student-athlete agrees to reimburse;*
- *(d) A description of the services to be provided to the student-athlete;*
- *(e) The duration of the contract; and*
- *(f) The date of execution.*

(3) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

- *(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;*
- *(2) IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT; AND*
- *(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.*

(4) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(5) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

SECTION 10. KRS 164.685 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(2) Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.

(2) A student-athlete may not waive the right to cancel an agency contract.

(3) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) An athlete agent shall retain the following records for a period of five (5) years:

(a) The name and address of each individual represented by the athlete agent;

(b) Any agency contract entered into by the athlete agent; and

(c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(2) Records required to be retained in subsection (1) of this section are open to inspection by the division during normal business hours.

SECTION 13. KRS 164.683 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(a) Give any materially false or misleading information or make a materially false promise or representation;

(b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(2) An athlete agent shall not intentionally:

(a) Initiate contact with a student-athlete unless registered under Sections 1 to 18 of this Act;

(b) Refuse or fail to retain or permit inspection of the records required to be retained by Section 12 of this Act;

(c) Fail to register when required by Section 4 of this Act;

(d) Provide materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate an agency contract; or

(f) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

Section 14. KRS 164.689 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

(1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with *Sections 1 to 18 of this Act*[~~KRS 164.680 to 164.687~~] shall be guilty of a Class A misdemeanor.

(2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in *Section 13 of this Act*[~~KRS 164.683~~] shall be guilty of a Class D felony.

(3) Any registered athlete agent who knowingly and willfully violates any provision of *Section 9 of this Act*[~~KRS 164.684~~] shall be guilty of a Class D felony.

(4) A student athlete who knowingly and willfully violates any provision of *Section 10 of this Act*[~~KRS 164.685 or KRS 164.684(5)~~] shall be guilty of a Class A misdemeanor.

(5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under *Section 15 of this Act*[~~KRS 164.686~~] shall be guilty of a Class D felony.

SECTION 15. KRS 164.686 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 164 TO READ AS FOLLOWS:

(1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of Sections 1 to 18 of this Act. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

(2) Damages of an educational institution under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of Sections 1 to 18 of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

(4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(5) The division may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars ($25,000) for a violation of Sections 1 to 18 of this Act.

(6) Sections 1 to 18 of this Act does not restrict rights, remedies, or defenses of any person under law or equity.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 18 of this Act governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

If any provision of Sections 1 to 18 of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of Sections 1 to 18 of this Act which can be given effect without the invalid provision or application, and to this end the provisions of Sections 1 to 18 of this Act are severable.

Calendar

HB 293, 397, 398, 210, 389, 428, 459, 462, HCR 126, HJR 140, HB 103, 174, 183, 314, 337, 370, 392, 412, 418, 419, 430, 431, 442, 470, HCR 46, 89, and **138** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Walton moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Walton moved the adoption of the following **Legislative Citation No. 35**.

The House of Representatives of the Commonwealth of Kentucky hereby commends Tony Spiller and welcomes him to the House Chambers during the 2003 Regular Session of the Kentucky General Assembly to be honored upon being named the well-deserving recipient of the 2002 Kentucky Tech Beginning Teacher of the Year in recognition of his phenomenal efforts as an Information Technology Instructor at Kentucky Tech-Boone County Area Technology Center. A 1995 graduate of Eastern Kentucky University, Mr. Spiller formerly served as the Network Administrator for Hilltop Resources in Cincinnati, Ohio, and as a Security Representative for Fidelity Investments. Having demonstrated an excellent command of his subject matter and a laudable ability to bring that material to the level of the individual student, Mr. Spiller has consistently demonstrated a willingness to go above and beyond the call of duty to offer guidance and support to his students and to facilitate the learning process. Inasmuch as this distinguished educator has established a superior level of potential and skill during his first sixteen months as a teacher, the members of this august body are indeed honored to join Representative Charles R. Walton in applauding him for this notable achievement and in extending best wishes as he continues to shape the lives of the youth of the community and this Commonwealth. Done in Frankfort, Kentucky, this nineteenth day of February, in the year two thousand and three.

Legislative Citation No. 35 was adopted without objection.

Senate Message

Announcing passage of **SB 20, 88, 44, 69, 157, 59, 94, 127, 50, 123,** and **64**. (Time: 2:10 p.m.)

Representative Stumbo moved that the rules be suspended to allow the House to recess for a Rules Committee meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to allow the House to recess for a Rules Committee report. Agreed.

Report of Committee

The Committee on Rules reported that **HB 174, 210, 293, 337, 397, 398, 419, 428, 430, 462, HCR 46, 89, 126, 138, HJR 140, HB 461, 19, 26, 74, 80, 110, 147, 158, 208, 272, 280, 292, 305, 310, 312, 355, 361, 363, 406, HJR 78, HB 25, 191, 224,** and **388** have been posted for passage in the Regular Orders of the Day for Thursday, February 20, 2003.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 360, HB 362**

Orders of the Day

HB 42 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 42** be passed.

On the roll call the vote was: **Yeas 93, Nays 2**. (See February 19, 2003, roll call on **HB 42** - Appendix.)

HB 42 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 42** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 18 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marcotte moved that **HB 18** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 19, 2003, roll call on **HB 18** - Appendix.)

HB 18 was passed and the title agreed to.

Representative Marcotte moved that the vote by which **HB 18** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 81, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved the adoption of the Committee Substitute to **HB 81**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 81**. Agreed.

Representative Meeks moved that **HB 81**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 55, Nays 37**. (See February 19, 2003, roll call on **HB 81** - Appendix.)

HB 81, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 81**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 334** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 19, 2003, roll call on **HB 334** - Appendix.)

HB 334 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 334** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 7, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 1 to **HJR 7**. Agreed.

Representative Collins moved that **HJR 7**, as amended, be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 19, 2003, roll call on **HJR 7** - Appendix.)

HJR 7, as amended, was adopted.

Representative Collins moved the adoption of Floor Amendment No. 2 Title to **HJR 7**. Agreed.

Representative Collins moved that the vote by which **HJR 7**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 67, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **HB 67**. Agreed.

Representative Damron moved that **HB 67**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 2**. (See February 19, 2003, roll call on **HB 67** - Appendix.)

HB 67, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 67**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 75,** and **HB 140** be recommitted to the Committee on Appropriations and Revenue. Agreed.

HB 145, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the Committee Substitute to **HB 145**. Agreed.

Representative Webb moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 145**. Agreed.

Representative Webb moved that **HB 145**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 19, 2003, roll call on **HB 145** - Appendix.)

HB 145, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 145**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 20 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its adoption. Agreed by a majority of members elected.

Representative Buckingham moved that **HCR 20** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 19, 2003, roll call on **HCR 20** - Appendix.)

HCR 20 was adopted and the title agreed to.

Representative Buckingham moved that the vote by which **HCR 20** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 242, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 242**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 242**. Agreed.

Representative J. Lee moved that **HB 242**, by way of Committee Substitute, as amended, be passed.

Representative Nunn moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 242**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 242**. Agreed.

Representative J. Lee moved that **HB 242**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 56, Nays 36**. (See February 19, 2003, roll call on **HB 242** - Appendix.)

HB 242, by way of Committee Substitute, as amended, was passed.

Representative J. Lee moved the adoption of Floor Amendment No. 5 Title to **HB 242**. Agreed.

Representative J. Lee moved that the vote by which **HB 242**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 177 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 177** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 19, 2003, roll call on **HB 177** - Appendix.)

HB 177 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 177** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 256 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 256** be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 19, 2003, roll call on **HB 256** - Appendix.)

HB 256 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 256** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 273 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 273** be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 19, 2003, roll call on **HB 273** - Appendix.)

HB 273 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 273** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 384 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 384** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 19, 2003, roll call on **HB 384** - Appendix.)

HB 384 was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 384** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 11, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **HB 11**. Agreed.

Representative Coleman moved that **HB 11**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See , 2003, roll call on **HB 11** - Appendix.)

HB 11, by way of Committee Substitute, was passed.

Representative Coleman moved the adoption of Committee Amendment No. 1 Title to **HB 11**. Agreed.

Representative Coleman moved that the vote by which **HB 11**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 53, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 53**. Agreed.

Representative Cherry moved that **HB 53**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 19, 2003, roll call on **HB 53** - Appendix.)

HB 53, by way of Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 53**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 40, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 40**. Agreed.

Representative Cherry moved that **HB 40**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 19, 2003, roll call on **HB 40** - Appendix.)

HB 40, by way of Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 40**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 41 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HB 41** be passed.

On the roll call the vote was: **Yeas 89, Nays 4**. (See February 19, 2003, roll call on **HB 41** - Appendix.)

HB 41 was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 41** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 50**. Agreed.

Representative Callahan moved that **HB 50**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 19, 2003, roll call on **HB 50** - Appendix.)

HB 50, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 50**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 64 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 64** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 19, 2003, roll call on **HB 64** - Appendix.)

HB 64 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 64** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 229 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 229** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 19, 2003, roll call on **HB 229** - Appendix.)

HB 229 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 229** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SCR 17, SB 48, 130, 132, 73, 138, 91, 71, 75,** and **121**. (Time: 400 p.m.)

HB 245 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 245** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 19, 2003, roll call on **HB 245** - Appendix.)

HB 245 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 245** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 255, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 255**. Agreed.

Representative J. Lee moved that **HB 255**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 6**. (See February 19, 2003, roll call on **HB 255** - Appendix.)

HB 255, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 255**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 114, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HB 114** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 19, 2003, roll call on **HB 114** - Appendix.)

HB 114 was passed.

Representative Vincent moved the adoption of Committee Amendment No. 1 Title to **HB 114**. Agreed.

Representative Vincent moved that the vote by which **HB 114**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 262, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cornett moved the adoption of Floor Amendment No. 1 to **HB 262**. Agreed.

Representative Gray moved that **HB 262**, as amended, be passed.

On the roll call the vote was: **Yeas 42, Nays 48**. (See February 19, 2003, roll call on **HB 262** - Appendix.)

HB 262 was defeated.

Representative Gray moved that the vote by which **HB 262**, as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 298, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HB 298**. Agreed.

Representative Riner moved that **HB 298**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 19, 2003, roll call on **HB 298** - Appendix.)

HB 298, by way of Committee Substitute, was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 298**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 299 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 299** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 19, 2003, roll call on **HB 299** - Appendix.)

HB 299 was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 299** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 303, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 303**. Agreed.

Representative Weaver moved that **HB 303**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See February 19, 2003, roll call on **HB 303** - Appendix.)

HB 303, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 303**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 352 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 352** be passed.

On the roll call the vote was: **Yeas 82, Nays 12**. (See February 19, 2003, roll call on **HB 352** - Appendix.)

HB 352 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 352** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 353 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 353** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 19, 2003, roll call on **HB 353** - Appendix.)

HB 353 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 353** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 372** be passed.

Representative Geveden moved that **HB 372** be laid on the Clerk's desk.

Representative Geveden moved that the motion to lay **HB 372** on the Clerk's desk be withdrawn. Agreed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 19, 2003, roll call on **HB 372** - Appendix.)

HB 372 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 372** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved to suspend the rules to remove **HCR 22, 84, 85, 86, 45, 106, 90, 94, 97, 110,** and **112** from the Regular Orders of the Day and place them on the Consent Orders of the Day for Thursday, February 20, 2003. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement be waived on **SB 11, HB 166, 247, 541, 549, 550, 308, 545, 531, 532** and **536**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived retroactively on **HB 407**. Agreed.

Representative Stumbo moved that the rules be suspended for the Introduction of a Resolution and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 153, by Representative Stumbo: A RESOLUTION expressing the sentiment that state resources should be used to assist Lexington Fayette Urban County Government in damage control and that those resources be declared necessary government expenses.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Agriculture and Small Business: **HB 541**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 316**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 39, HB 98,** with Committee Substitute attached thereto, **HB 289,** with Committee Substitute attached thereto, **HB 324,** with Committee Substitute attached thereto, **HB 380,** with Committee Substitute attached thereto, **HJR 75, HJR 102,** and **HJR 111** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 39, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.021 is amended to read as follows:

(1) *Upon clear and convincing proof that it is in the best interest of the child to do so,* the Circuit Court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child and issue any necessary orders to enforce the decree *as long as the visitation does not substantially interfere with the rights of the parents*[~~if it determines that it is in the best interest of the child to do so~~]. Once a grandparent has been granted visitation rights under this subsection, those rights shall not be adversely affected by the termination of parental rights belonging to the grandparent's son or daughter, who is the father or mother of the child visited by the grandparent, unless the Circuit Court determines that it is in the best interest of the child to do so.

(2) The action shall be brought in Circuit Court in the county in which the child resides.

(3) The Circuit Court may grant noncustodial parental visitation rights to the grandparent of a child if the parent of the child who is the son or daughter of the grandparent is deceased and the grandparent has assumed the financial obligation of child support owed by the deceased parent, unless the court determines that the visitation is not in the best interest of the child. If visitation is not granted, *then* the grandparent shall not be responsible for child support.

HB 98, AN ACT relating to nonprofit corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) Any cause of action for monetary damages against a corporation duly organized and in good standing pursuant to the Kentucky Nonprofit Corporation Acts, KRS 273.161 to 273.390, that is based on a right granted under the Kentucky Revised Statutes shall be referred to arbitration, mediation, or other alternative form of dispute resolution in accordance with KRS Chapter 417, model mediation rules of the Kentucky Supreme Court, federal District Court Joint

Local Rule of Civil Practice 16.2, or other applicable local court rule governing alternative dispute resolution.

(2) Any other cause of action against a corporation duly organized and in good standing pursuant to the Kentucky Nonprofit Corporation Acts, KRS 273.161 to 273.390, shall be considered for alternative dispute resolution by the presiding judge in accordance with KRS Chapter 417, model mediation rules of the Kentucky Supreme Court, federal District Court Joint Local Rule of Civil Practice 16.2, or other applicable local court rule governing alternative dispute resolution.

(3) This section shall not apply to involuntary dissolution or liquidation of assets and affairs under the Kentucky Nonprofit Corporation Acts, KRS 273.161 to 273.390.

Section 2. KRS 273.161 is amended to read as follows:

As used in KRS ***273.161***[~~273.163~~] to ***273.390***[~~273.387~~], unless the context otherwise requires, the term:

(1) ***"Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger***[~~"Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS 273.163 to 273.387, except a foreign corporation~~];

(2) ***"Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which the group is designated***[~~"Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state~~];

(3) ***"Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which the rules are designated***[~~"Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers~~];

(4) ***"Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS 273.161 to 273.390, except a foreign corporation***[~~"Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger~~];

(5) ***"Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government***[~~"Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated~~];

(6) ***"Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this Commonwealth***[~~"Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws~~];

(7) ***"Individual" includes the estate of an incompetent or deceased individual***[~~"Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which group is designated~~];

(8) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs;

(9) ***"Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws***[~~"Principal office" means the office (in or out of this state) so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located~~];

(10) ***"Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors, or officers***[~~"Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation~~];

(11) ***"Person" includes individual and entity***[~~"Individual" includes the estate of an incompetent or deceased individual~~];

(12) ***"Principal office" means the office, inside or outside of this Commonwealth, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located***[~~"Entity" includes corporation and foreign corporation; not for profit corporation; profit and not for profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government~~]; and

(13) ***"Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation***[~~"Person" includes individual and entity~~].

Section 3. KRS 273.247 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) The name of the corporation;

(b) The purpose or purposes for which the corporation is organized;

(c) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets or dissolution or final liquidation;

(d) The street address of the corporation's initial registered office and the name of its initial registered agent at that address;

(e) The mailing address of the corporation's principal office;

(f) The number of directors constituting the initial board of directors, and the names and mailing addresses of the persons who are to serve as the initial directors; and

(g) The name and mailing address of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in KRS ***273.161***[~~273.163~~] to ***273.390***[~~273.387~~].

(3) Unless its articles of incorporation provide otherwise, every corporation shall be presumed to have perpetual duration and succession in its corporate name.

(4) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, when a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

(5) Unless the registered agent signs the articles, the corporation shall deliver with the articles of incorporation the registered agent's written consent to the appointment.

Section 4. KRS 68.200 is amended to read as follows:

(1) As used in this section, unless the context clearly indicates otherwise:

(a) Motor vehicle means "vehicle" as defined in KRS 186.010(8)(a);

(b) Retailer means "retailer" as defined in KRS 139.110(1)(a); and

(c) Gross rental charge means "gross rental charge" as defined in KRS 138.462(4).

(2) A county containing a city of the first, second, or third class or urban-county government may levy a license fee on the rental of motor vehicles which shall not exceed three percent (3%) of the gross rental charges from rental agreements for periods of thirty (30) days or less. The license fee shall apply to retailers who receive more than seventy-five percent (75%) of their gross revenues generated in the county from gross rental charges. Any license fee levied pursuant to this subsection shall be collected by the retailer from the renters of the motor vehicles.

(3) Revenues from rental of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:

(a) The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or

(b) The rental is part of the services provided by a funeral director for a funeral; or

(c) The rental is exempted from the state sales and use tax pursuant to KRS 139.470.

(4) A fiscal court or the legislative body of an urban-county government shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee account. The revenues may be shared among local governments pursuant to KRS 65.245.

(5) The county shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.245, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the county's economic development activities:

(a) A riverport authority established by the county pursuant to KRS 65.520; or

(b) An industrial development authority established by the county pursuant to KRS 154.50-316; or

(c) A nonprofit corporation as defined in KRS 273.161[~~(3)~~] which has been organized for the purpose of promoting economic development.

The entity shall make a written request for funds from the motor vehicle license fee account by May 31 and November 30, respectively.

The Committee Substitute to **HB 98** is as follows:

HB 98, AN ACT relating to nonprofit corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) Any cause of action for monetary damages that is:

(a) Based on a right granted under the Kentucky Revised Statutes, and

(b) Brought against an organization domiciled in this Commonwealth that is qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as exempt from federal income tax liability,

shall be referred to mediation in accordance with model mediation rules of the Kentucky Supreme Court or other applicable local court rule governing mediation upon its adoption. A cause of action referred to mediation under this subsection shall, upon objection by any party to the action, remain or be placed on the court's regular docket and proceed accordingly. The presiding judge shall explain rule 12 of the model mediation rules, or its local equivalent, on confidentiality to all parties before referral to mediation pursuant to this subsection.

(2) Any other cause of action against an organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as exempt from federal income tax liability shall be considered for mediation by the presiding judge in accordance with model mediation rules of the Kentucky Supreme Court or other applicable local court rule governing mediation upon its adoption.

HB 289, AN ACT relating to construction defect claims asserting property loss and damage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Unless the context clearly requires otherwise, the definitions in this section apply throughout Sections 1 to 11 of this Act:

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence or in the substantial remodel of a residence. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect;

(2) "Claimant" means a homeowner who asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodel of a residence;

(3) "Construction professional" means an architect, builder, builder-vendor, contractor, subcontractor, engineer, or inspector, including but not limited to any person performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property, whether operating as a sole proprietor, partnership, corporation, or other business entity;

(4) "Homeowner" means any person, company, firm, partnership, corporation, or association that contracts with a construction professional for the construction, sale, or construction and sale of a residence. "Homeowner" includes but is not limited to a subsequent purchaser of a residence form any homeowner;

(5) "Residence" means a single-family house, duplex, triplex, or quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium regime as defined in KRS 381.815 and shall include general and limited common elements as defined in KRS 381.810(7) and (8);

(6) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee; and

(7) "Substantial remodel" means a remodel of a residence for which the total cost exceeds the jurisdictional limits of small claims court as contained in KRS 24A.230(1) and (2).

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds, declares, and determines that limited changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged residential construction defects. It is the intent of the General Assembly that Sections 1 to 11 of this Act apply to theses types of civil actions while preserving adequate rights and remedies for property owners who bring and maintain such actions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act shall:

(1) Apply to any claim that arises before, on, or after July 15, 2003, as the result of a construction defect, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 15, 2003;

(2) Prevail over any conflicting law otherwise applicable to the claim or cause of action;

(3) Not bar or limit any claim or defense otherwise available except as otherwise provided in Sections 1 to 11 of this Act; and

(4) Not create a new theory upon which liability may be based.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In a claim to recover damages resulting from a construction defect, a construction professional is liable for his or her acts or omissions or the acts or omissions of his or her agents, employees, or subcontractors and is not liable for any damages caused by:

(1) The acts or omissions of a person other than the construction professional or his or her agent, employee, or

subcontractor;

(2) The failure of a person other than the construction professional or his or her agent, employee, or subcontractor to take reasonable action to reduce the damages or maintain the residence;

(3) Normal wear, tear, or deterioration;

(4) Normal shrinkage, swelling, expansion, or settlement; or

(5) Any construction defect disclosed to a claimant before his or her purchase of the residence, if the disclosure was provided in writing and in language that is understandable and was signed by the claimant.

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In every construction defect action brought against a construction professional, the claimant shall, no later than sixty (60) days before filing an action, serve written notice of claim on the construction professional. The notice of claim shall state that the claimant asserts a construction defect claim against the construction professional and shall describe the claim in reasonable detail sufficient to determine the general nature of the defect.

(2) Within twenty-one (21) days after service of the notice of claim, the construction professional shall serve a written response on the claimant by registered mail or personal service. The written response shall:

(a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the construction professional shall, based on the inspection, offer to remedy the defect compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this paragraph to compromise and settle a homeowner's claim may include but is not limited to an express offer to purchase the claimant's residence that is the subject of the claim, and to pay the claimant's reasonable relocation costs; or

(c) State that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.

(3) (a) If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the inspection proposal or the settlement offer made by the construction professional pursuant to subsection (2) of this section, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty (30) days after the claimant's receipt of the construction professional's response, either an acceptance or a rejection of the inspection proposal or settlement offer, then at any time thereafter the construction professional may terminate the proposal or offer by serving written notice to the claimant, and the claimant may thereafter bring an action against the construction professional for the construction defect claim described in the notice of claim.

(4) (a) If the claimant elects to allow the construction professional to inspect in accordance with the construction professional's proposal pursuant to subsection (2)(a) of this section, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to inspect the premises and the claimed defect.

(b) Within fourteen (14) days following completion of the inspection, the construction professional shall serve on the claimant:

1. A written offer to remedy the construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, and a timetable for the completion of this construction;

2. A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or

3. Written statement that the construction professional will not proceed further to remedy the defect.

(c) If the construction professional does not proceed further to remedy the construction defect within the agreed timetable, or if the construction professional fails to comply with the provisions of paragraph (b) of this subsection, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(d) If the claimant rejects the offer made by the construction professional pursuant to paragraph (b)1. or 2. of this subsection to either remedy the construction defect or to compromise and settle the claim by monetary payment, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection notice, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from

the claimant, within thirty (30) days after the claimant's receipt of the construction professional's response, either an acceptance or a rejection of the offer made pursuant to paragraph (b)1. or 2. of this subsection, then at any time thereafter the construction professional may terminate the offer by serving written notice to the claimant.

(5) (a) Any claimant accepting the offer of a construction professional to remedy the construction defect pursuant to subsection (4)(b)1. of this section shall do so by serving the construction professional with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty (30) days after receipt of the offer. The claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.

(b) The claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer, including but not limited to repair of additional defects.

(6) Any complaint filed by a claimant prior to compliance with the requirements of this section shall be subject to dismissal without prejudice, and may not be recommenced until the claimant has complied with the requirements of this section. If a claimant files an action as part or in the form of a counterclaim or cross-claim, the court shall issue an order holding the action, including related actions, in abeyance until the parties comply with the requirements of this section.

(7) Nothing in this section may be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.

(8) Prior to commencing any action alleging a construction defect, or after the dismissal of any action without prejudice pursuant to subsection (6) of this section, the claimant may amend the notice of claim to include construction defects discovered after the service of the original notice of claim, and shall otherwise comply with the requirements of this section for the additional claims. The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose. Claims for defects discovered after the commencement or recommencement of an action may be added to such an action only after providing notice to the construction professional of the defect and allowing for response under subsection (2) of this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) (a) Notwithstanding the provisions of KRS 198B.130, if a claimant unreasonably rejects a reasonable written offer of settlement made as part of a response made pursuant to Section 5 of this Act or does not permit the construction profession or the professional's inspector or independent contractor a reasonable opportunity to inspect or to repair the defect pursuant to an accepted offer of settlement and thereafter commences an action governed by Sections 1 through 11 of this Act, inclusive, the court in which the action is commenced may:

(b) Deny the claimant's attorney's fees and costs; and

(c) Award attorney's fees and costs to the construction professional.

(2) Any sums paid under a homeowner's warranty, other than sums paid in satisfaction of claims that are collateral to any coverage issued to or by the construction professional, shall be deducted from any recovery.

(3) If a construction professional fails to comply with the requirement of Sections 1 to 11 of this Act, the claimant shall not be obligated to further comply with the provisions of Sections 1 to 11 of this Act, the claimant may commence an action without satisfying any other requirement of Sections 1 to 11 of this Act and none of the provisions of Sections 1 to 11 of this Act shall be applied to the detriment of the claimant.

(4) If a construction professional unreasonably refuses to make repairs of defects identified by the claimant, the court in which the action is commenced may:

(a) Deny the construction professional's attorney's fees and costs; and

(b) Award attorney's fees and costs to the claimant.

SECTION 7. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In every action brought against a construction professional, the claimant, including a construction professional asserting a claim against another construction professional, shall file with the court and serve on the defendant a list of known construction defects in accordance with this section.

(2) The list of known construction defects shall contain a description of the construction that the claimant alleges to be defective. The list of known construction defects shall be filed with the court and served on the defendant within thirty (30) days after the commencement of the action or within such longer period as the court in its discretion may allow.

(3) The list of known construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant.

(4) The list of known construction defects shall specify, to the extent known to the claimant, the construction professional responsible for each defect identified by the claimant.

(5) If a subcontractor or supplier is added as a party to an action under this section, the party making the claim against the subcontractor or supplier shall serve on the subcontractor or supplier the list of construction defects in accordance with this section within thirty (30) days after service of the complaint against the subcontractor or supplier or within such period as the court in its discretion may allow.

SECTION 8. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The construction professional shall provide notice to each homeowner, upon entering into a contract for sale, construction, or substantial remodel of a residence, of the construction professional's right to offer to cure construction defects before a homeowner may commence litigation against the construction professional. The notice shall be conspicuous and may be included as part of the underlying contract signed by the homeowner.

(2) The notice required by this section shall be in substantially the following form: "Sections 1 to 8 of this Act contains IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE SELLER OR BUILDER OF YOUR HOME. SIXTY (60) DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE SELLER OR BUILDER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR SELLER OR BUILDER THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER OR SELLER. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT."

(3) Sections 1 to 11 of this Act shall not preclude or bar any action if notice is not given to the homeowner as required by this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 11 of this Act shall be construed to hinder or otherwise affect the employment agency, or contractual relationship between and among homeowners and construction professionals during the process of construction or remodeling, and nothing in Sections 1 to 11 of this Act precludes the termination of those relationships as allowed under current law. Nothing in Sections 1 to 11 of this Act shall negate or otherwise restrict a construction professional's right to access or inspection provided by law, covenant, easement, or contract.

SECTION 10. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

If a written notice of claim is served under Sections 5 of this Act within the time prescribed for the filing of an action under Sections 1 to 11 of this Act, the statutes of limitations for construction-related claims are tolled until seventy-five (75) days after the expiration of the time frame agreed to by the parties as permitted in subsection (2) of Section 5 of this Act, or the date established for inspection pursuant to subsection (2)(a) of Section 5 of this Act, or the expiration of the time frame contained in subsection (4)(b) of Section 5 of this Act, whichever last occurs.

SECTION 11. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act shall be referred to as the Notice and Opportunity to Repair Act.

The Committee Substitute to **HB 289** is as follows:

HB 289, AN ACT relating to construction defect claims asserting property loss and damage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Unless the context clearly requires otherwise, the definitions in this section apply throughout Sections 1 to 11 of this Act:

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence or in the substantial remodel of a residence. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect;

(2) "Claimant" means a homeowner who asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodel of a residence;

(3) "Construction professional" means an architect, builder, builder-vendor, contractor, subcontractor, engineer, or inspector, including but not limited to any person performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property, whether operating as a sole proprietor, partnership, corporation, or other business entity;

(4) "Homeowner" means any person, company, firm, partnership, corporation, or association that contracts with a construction professional for the construction, sale, or construction and sale of a residence. "Homeowner" includes but is not limited to a subsequent purchaser of a residence from any homeowner;

(5) "Residence" means a single-family house, duplex, triplex, or quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium regime as defined in KRS

381.815 and shall include general and limited common elements as defined in KRS 381.810(7) and (8);

(6) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee; and

(7) "Substantial remodel" means a remodel of a residence for which the total cost exceeds the jurisdictional limits of small claims court as contained in KRS 24A.230(1) and (2).

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds, declares, and determines that limited changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged residential construction defects. It is the intent of the General Assembly that Sections 1 to 11 of this Act apply to theses types of civil actions while preserving adequate rights and remedies for property owners who bring and maintain such actions.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act shall:

(1) Apply to any claim that arises before, on, or after July 15, 2003, as the result of a construction defect, except a claim for personal injury or wrongful death, if the claim is the subject of an action commenced on or after July 15, 2003;

(2) Prevail over any conflicting law otherwise applicable to the claim or cause of action;

(3) Not bar or limit any claim or defense otherwise available except as otherwise provided in Sections 1 to 11 of this Act; and

(4) Not create a new theory upon which liability may be based.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In a claim to recover damages resulting from a construction defect, a construction professional is liable for his or her acts or omissions or the acts or omissions of his or her agents, employees, or subcontractors and is not liable for any damages caused by:

(1) The acts or omissions of a person other than the construction professional or his or her agent, employee, or subcontractor;

(2) The failure of a person other than the construction professional or his or her agent, employee, or subcontractor to take reasonable action to reduce the damages or maintain the residence;

(3) Normal wear, tear, or deterioration;

(4) Normal shrinkage, swelling, expansion, or settlement; or

(5) Any construction defect disclosed to a claimant before his or her purchase of the residence, if the disclosure was provided in writing and in language that is understandable and was signed by the claimant.

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In every construction defect action brought against a construction professional, the claimant shall, no later than sixty (60) days before filing an action, serve written notice of claim on the construction professional. The notice of claim shall state that the claimant asserts a construction defect claim against the construction professional and shall describe the claim in reasonable detail sufficient to determine the general nature of the defect.

(2) Within twenty-one (21) days after service of the notice of claim, the construction professional shall serve a written response on the claimant by registered mail or personal service. The written response shall:

(a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the construction professional shall, based on the inspection, offer to remedy the defect compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this paragraph to compromise and settle a homeowner's claim may include but is not limited to an express offer to purchase the claimant's residence that is the subject of the claim, and to pay the claimant's reasonable relocation costs; or

(c) State that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.

(3) (a) If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the inspection proposal or the settlement offer made by the construction professional pursuant to subsection (2) of this section, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty (30) days after the claimant's receipt of the construction professional's response, either an acceptance or a rejection of the inspection proposal or settlement offer, then at any time thereafter the construction professional may terminate the proposal or offer by serving

written notice to the claimant, and the claimant may thereafter bring an action against the construction professional for the construction defect claim described in the notice of claim.

(4) (a) If the claimant elects to allow the construction professional to inspect in accordance with the construction professional's proposal pursuant to subsection (2)(a) of this section, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to inspect the premises and the claimed defect.

(b) Within fourteen (14) days following completion of the inspection, the construction professional shall serve on the claimant:

1. A written offer to remedy the construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, and a timetable for the completion of this construction; and

2. A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or

3. Written statement that the construction professional will not proceed further to remedy the defect.

The claimant shall have the right to accept or reject the proposed construction defect correction, or the monetary offer to settle the claim.

(c) If the construction professional does not proceed further to remedy the construction defect within the agreed timetable, or if the construction professional fails to comply with the provisions of paragraph (b) of this subsection, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(d) If the claimant rejects the offer made by the construction professional pursuant to paragraph (b)1. or 2. of this subsection to either remedy the construction defect or to compromise and settle the claim by monetary payment, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection notice, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty (30) days after the claimant's receipt of the construction professional's response, either an acceptance or a rejection of the offer made pursuant to paragraph (b)1. or 2. of this subsection, then at any time thereafter the construction professional may terminate the offer by serving written notice to the claimant.

(5) (a) Any claimant accepting the offer of a construction professional to remedy the construction defect pursuant to subsection (4)(b)1. of this section shall do so by serving the construction professional with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty (30) days after receipt of the offer. The claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.

(b) The claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer, including but not limited to repair of additional defects.

(6) Any complaint filed by a claimant prior to compliance with the requirements of this section shall be subject to dismissal without prejudice, and may not be recommenced until the claimant has complied with the requirements of this section. If a claimant files an action as part or in the form of a counterclaim or cross-claim, the court shall issue an order holding the action, including related actions, in abeyance until the parties comply with the requirements of this section.

(7) Nothing in this section may be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.

(8) Prior to commencing any action alleging a construction defect, or after the dismissal of any action without prejudice pursuant to subsection (6) of this section, the claimant may amend the notice of claim to include construction defects discovered after the service of the original notice of claim, and shall otherwise comply with the requirements of this section for the additional claims. The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose. Claims for defects discovered after the commencement or recommencement of an action may be added to such an action only after providing notice to the construction professional of the defect and allowing for response under subsection (2) of this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) (a) Notwithstanding the provisions of KRS 198B.130, if a claimant unreasonably rejects a reasonable written offer of settlement made as part of a response made pursuant to Section 5 of this Act or does not permit the construction profession or the professional's inspector or independent contractor a reasonable opportunity to inspect or to repair the defect pursuant to an accepted offer of settlement and thereafter commences an action

governed by Sections 1 through 11 of this Act, inclusive, the court in which the action is commenced may:

(b) Deny the claimant's attorney's fees and costs; and

(c) Award attorney's fees and costs to the construction professional.

(2) Any sums paid under a homeowner's warranty, other than sums paid in satisfaction of claims that are collateral to any coverage issued to or by the construction professional, shall be deducted from any recovery.

(3) If a construction professional fails to comply with the requirement of Sections 1 to 11 of this Act, the claimant shall not be obligated to further comply with the provisions of Sections 1 to 11 of this Act, the claimant may commence an action without satisfying any other requirement of Sections 1 to 11 of this Act and none of the provisions of Sections 1 to 11 of this Act shall be applied to the detriment of the claimant.

(4) If a construction professional unreasonably refuses to make repairs of defects identified by the claimant, the court in which the action is commenced may:

(a) Deny the construction professional's attorney's fees and costs; and

(b) Award attorney's fees and costs to the claimant.

SECTION 7. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In every action brought against a construction professional, the claimant, including a construction professional asserting a claim against another construction professional, shall file with the court and serve on the defendant a list of known construction defects in accordance with this section.

(2) The list of known construction defects shall contain a description of the construction that the claimant alleges to be defective. The list of known construction defects shall be filed with the court and served on the defendant within thirty (30) days after the commencement of the action or within such longer period as the court in its discretion may allow.

(3) The list of known construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant.

(4) The list of known construction defects shall specify, to the extent known to the claimant, the construction professional responsible for each defect identified by the claimant.

(5) If a subcontractor or supplier is added as a party to an action under this section, the party making the claim against the subcontractor or supplier shall serve on the subcontractor or supplier the list of construction defects in accordance with this section within thirty (30) days after service of the complaint against the subcontractor or supplier or within such period as the court in its discretion may allow.

SECTION 8. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The construction professional shall provide notice to each homeowner, upon entering into a contract for sale, construction, or substantial remodel of a residence, of the construction professional's right to offer to cure construction defects before a homeowner may commence litigation against the construction professional. The notice shall be conspicuous and may be included as part of the underlying contract signed by the homeowner.

(2) The notice required by this section shall be in substantially the following form: "Sections 1 to 8 of this Act contains IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE SELLER OR BUILDER OF YOUR HOME. SIXTY (60) DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE SELLER OR BUILDER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR SELLER OR BUILDER THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER OR SELLER. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT."

(3) Sections 1 to 11 of this Act shall not preclude or bar any action if notice is not given to the homeowner as required by this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 11 of this Act shall be construed to hinder or otherwise affect the employment agency, or contractual relationship between and among homeowners and construction professionals during the process of construction or remodeling, and nothing in Sections 1 to 11 of this Act precludes the termination of those relationships as allowed under current law. Nothing in Sections 1 to 11 of this Act shall negate or otherwise restrict a construction professional's right to access or inspection provided by law, covenant, easement, or contract.

SECTION 10. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

If a written notice of claim is served under Sections 5 of this Act within the time prescribed for the filing of an action under Sections 1 to 11 of this Act, the statutes of limitations for construction-related claims are tolled until seventy-five (75) days *after the expiration of the time frame agreed to by the parties as permitted in subsection (2) of Section 5 of this Act, or the date established for inspection pursuant to subsection (2)(a) of Section 5 of this Act, or the expiration of the time frame contained in subsection (4)(b) of Section 5 of this Act, whichever last occurs.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act shall be referred to as the Notice and Opportunity to Repair Act.

HB 324, AN ACT relating to real property conveyances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) A seller, lessor, or landlord of real property or a participant in an exchange of real property or his or her agent licensed under the provisions of KRS Chapter 324 involved in the sale, leasing, or exchange of real property, shall not be liable for failing to disclose nor have a duty to disclose to any person who acquires, by voluntary or involuntary transfer, a legal or equitable interest in real property, including any leasehold or security interest for an obligation, the fact or suspicion that the real property:

(a) Is or has been the site of a natural death;

(b) Is or has been the site of a homicide, suicide, assault, sexual assault, or any other crime classified as a felony under the KRS;

(c) Is or has been owned or occupied by a person who was exposed to, infected with, or suspected to be infected with the human immunodeficiency virus or is or has been diagnosed to be suffering from acquired immune deficiency syndrome or any other disease that has been determined by medical evidence as highly unlikely to be transmitted to others through the occupancy of improvements to real property or that is not known to be transmitted through the occupancy of improvements located on the real property; or

(d) Is located in the same block where a sex offender lives. As used in this paragraph, "block" means both sides of the street between the nearest intersecting streets closest to the street on which the sex offender lives.

(2) Nothing in this section shall be construed to immunize a seller, lessor, or landlord of real property or a participant in an exchange of real property or his or her agent who intentionally misrepresents any of the information in paragraphs (a) to (c) of subsection (1) in response to a direct inquiry from a buyer, lessee, tenant, or transferee or a prospective buyer, lessee, tenant, or transferee or the buyer's, lessee's, tenant's or transferee's or prospective buyer's, lessee's, tenant's or transferee's agent.

The Committee Substitute to **HB 324** is as follows:

HB 324, AN ACT relating to real property conveyances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) A seller, lessor, or landlord of real property or a participant in an exchange of real property or his or her agent licensed under the provisions of KRS Chapter 324 involved in the sale, leasing, or exchange of real property, shall not be liable for failing to disclose nor have a duty to disclose to any person who acquires, by voluntary or involuntary transfer, a legal or equitable interest in real property, including any leasehold or security interest for an obligation, the fact or suspicion that the real property:

(a) Is or has been the site of a natural death;

(b) Is or has been the site of a homicide, suicide, assault, sexual assault, or any other crime classified as a felony under the KRS;

(c) Is or has been owned or occupied by a person who was exposed to, infected with, or suspected to be infected with the human immunodeficiency virus or is or has been diagnosed to be suffering from acquired immune deficiency syndrome or any other disease that has been determined by medical evidence as highly unlikely to be transmitted to others through the occupancy of improvements to real property or that is not known to be transmitted through the occupancy of improvements located on the real property; or

(d) Is located in the same block where a sex offender lives. As used in this paragraph, "block" means both sides of the street between the nearest intersecting streets closest to the street on which the sex offender lives.

(2) Nothing in this section shall be construed to immunize a seller, lessor, or landlord of real property or a participant in an exchange of real property or his or her agent who intentionally misrepresents any of the information in paragraphs (a) to (d) of subsection (1) in response to a direct inquiry from a buyer, lessee, tenant, or transferee or a prospective buyer, lessee, tenant, or transferee or the buyer's, lessee's, tenant's or transferee's or prospective buyer's, lessee's, tenant's or transferee's agent.

HB 380, AN ACT relating to family courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 23A.100 IS REPEALED, REENACTED, AND AMENDED TO READ AS FOLLOWS:

(1) As a division of Circuit Court with general jurisdiction pursuant to Section 112(6) of the Constitution of Kentucky, a family court division of Circuit Court shall retain jurisdiction in the following cases:

  (a) Dissolution of marriage;

  (b) Child custody;

  (c) Visitation;

  (d) Maintenance and support;

  (e) Equitable distribution of property in dissolution cases;

  (f) Adoption; and

  (g) Termination of parental rights.

(2) In addition to general jurisdiction of Circuit Court, a family court division of Circuit Court shall have the following additional jurisdiction concurrent with District Court:

  (a) Domestic violence and abuse proceedings subsequent to the issuance of an emergency protective order under KRS 403.740 wherein the parties are spouses, former spouses, parents of a minor child in common, persons who cohabit or have cohabited as spouses, or in proceedings under KRS 403.715 to 403.785 where an action between the parties is pending or has been pending in the past twelve (12) months in a family court division of Circuit Court;

  (b) Child custody, visitation, and support determinations in paternity proceedings under KRS Chapter 406 upon certification by the District Court, after its determination of paternity, that custody or visitation is contested. Upon such certification, the case shall be transferred to a family court division of Circuit Court for all further proceedings;

  (c) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and

  (d) Juvenile status offenses under KRS Chapter 630, except where proceedings under KRS Chapters 635 or 640 are pending or have been pending in the past twelve (12) months against the juvenile.

(3) Nothing in this section shall be construed to limit the general or concurrent jurisdiction of a family court division of Circuit Court.

SECTION 2. KRS 23A.110 IS REPEALED, REENACTED, AND AMENDED TO READ AS FOLLOWS:

The additional jurisdiction of a family court division of Circuit Court shall be liberally construed and applied to promote its underlying purposes, which are as follows:

(1) To strengthen and preserve the integrity of the family and safeguard marital and familial relationships;

(2) To protect children and adult family members from domestic violence and abuse;

(3) To promote the amicable settlement of disputes that have arisen between family members;

(4) To assure an adequate remedy for children adjudged to be dependent, abused, or neglected, and for those children adjudicated as status offenders;

(5) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage;

(6) To make adequate provision for the care, custody, and support of minor children of divorce and for those children who have been born out of wedlock; and

(7) To provide a level of proceedings, when necessary, that is more appropriate to a family court division of Circuit Court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 118A TO BE NUMBERED AS KRS 118A.045 IS CREATED TO READ AS FOLLOWS:

(1) Family court judges shall be elected from the judicial circuits established in KRS Chapter 23A and from a family court division so designated by the Supreme Court pursuant to Section 112(6) of the Constitution of Kentucky.

(2) All family court divisions as certified by the Clerk of the Supreme Court of Kentucky shall have such designation specifically appear on the ballot. The words "Family Court" shall be printed on the ballot in an appropriate location for divisions of Circuit Court certified by the Clerk of the Supreme Court of Kentucky as family court divisions. Prior to the first Wednesday after the first Monday in November of each scheduled election year, the Clerk of the Supreme Court of Kentucky shall certify the divisions of Circuit Court within a judicial circuit that are designated as family court divisions and deliver such certification to the Secretary of State.

(3) In judicial circuits having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of Circuit Judges in the circuit. Each judge shall be elected at large from the entire circuit.

(4) Each numbered division of a circuit shall be voted upon and shall be tallied separately.

Section 4. KRS 23A.010 is amended to read as follows:

(1) The Circuit Court is a court of general jurisdiction; it has original jurisdiction of all justiciable causes not exclusively vested in some other court.

(2) The Circuit Court has appellate jurisdiction as specified in this chapter.

(3) The Circuit Court is a court of record and of continuous session.

(4) The Circuit Court may be authorized by law to review the actions or decisions of administrative agencies, special districts or boards. Such review shall not constitute an appeal but an original action.

[~~(5) Whenever the Chief Justice by order pursuant to Section 110(5) (b) of the Constitution of Kentucky or the Supreme Court pursuant to Section 116 of the Constitution of Kentucky shall establish a family court within a judicial circuit, the Circuit Court shall exercise concurrent jurisdiction, or as the Chief Justice or Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.~~]

Section 5. KRS 118A.010 is amended to read as follows:

[~~(1)~~]As used in this chapter, ***unless*** the ***context otherwise requires:***[~~word "election" refers only to elections for offices of the Court of Justice.~~]

(1)[~~(2)~~] [~~A~~]"Ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, a special ballot, or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general, or special election by the Secretary of State or the county clerk;[~~.~~]

(2)[~~(3)~~] ***"Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting device or by marking with a pen or special marking device;***[~~"Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.~~]

(3)[~~(4)~~] ***"Ballot label" means the cards, papers, booklet, pages, or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines;***[~~"Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.~~]

(4)[~~(5)~~] ***"Election" refers only to elections for offices of the Court of Justice; and***

(5) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting his vote in an election.

[~~(6)~~]No provisions of KRS Chapter 118 existing on March 10, 1976, except KRS 118.015 through 118.045 shall apply to such elections. All other provisions of the election laws not inconsistent with this chapter shall be applicable thereto.

The Committee Substitute to **HB 380** is as follows:

HB 380, AN ACT relating to family courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 23A.100 IS REPEALED, REENACTED, AND AMENDED TO READ AS FOLLOWS:

(1) As a division of Circuit Court with general jurisdiction pursuant to Section 112(6) of the Constitution of Kentucky, a family court division of Circuit Court shall retain jurisdiction in the following cases:

- ***(a) Dissolution of marriage;***
- ***(b) Child custody;***
- ***(c) Visitation;***
- ***(d) Maintenance and support;***
- ***(e) Equitable distribution of property in dissolution cases;***
- ***(f) Adoption; and***
- ***(g) Termination of parental rights.***

(2) In addition to general jurisdiction of Circuit Court, a family court division of Circuit Court shall have the following additional jurisdiction:

- ***(a) Domestic violence and abuse proceedings subsequent to the issuance of an emergency protective order under KRS 403.740 wherein the parties are spouses, former spouses, parents of a minor child in common, a parent or legal guardian on behalf of a minor child, persons who cohabit or have cohabited as spouses, or in proceedings under KRS 403.715 to 403.785 where an action between the parties is pending or has been pending in the past twelve (12) months in a family court division of Circuit Court;***
- ***(b) Child custody, visitation, and support determinations in paternity proceedings under KRS Chapter 406 upon certification by the District Court, after its determination of paternity, that custody or visitation is contested.***

Upon such certification, the case shall be transferred to a family court division of Circuit Court for all further proceedings;

(c) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and

(d) Juvenile status offenses under KRS Chapter 630, except where proceedings under KRS Chapters 635 or 640 are pending or have been pending in the past twelve (12) months against the juvenile.

(3) Family court divisions of Circuit Court shall be the primary forum for cases in this section, except that nothing in this section shall be construed to limit the concurrent jurisdiction of District Court.

SECTION 2. KRS 23A.110 IS REPEALED, REENACTED, AND AMENDED TO READ AS FOLLOWS:

The additional jurisdiction of a family court division of Circuit Court shall be liberally construed and applied to promote its underlying purposes, which are as follows:

(1) To strengthen and preserve the integrity of the family and safeguard marital and familial relationships;

(2) To protect children and adult family members from domestic violence and abuse;

(3) To promote the amicable settlement of disputes that have arisen between family members;

(4) To assure an adequate remedy for children adjudged to be dependent, abused, or neglected, and for those children adjudicated as status offenders;

(5) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage;

(6) To make adequate provision for the care, custody, and support of minor children of divorce and for those children who have been born out of wedlock; and

(7) To provide a level of proceedings, when necessary, that is more appropriate to a family court division of Circuit Court.

SECTION 3. A NEW SECTION OF KRS CHAPTER 118A TO BE NUMBERED AS KRS 118A.045 IS CREATED TO READ AS FOLLOWS:

(1) Family court judges shall be elected from the judicial circuits established in KRS Chapter 23A and from a family court division so designated by the Supreme Court pursuant to Section 112(6) of the Constitution of Kentucky.

(2) All family court divisions as certified by the Clerk of the Supreme Court of Kentucky shall have such designation specifically appear on the ballot. The words "Family Court" shall be printed on the ballot in an appropriate location for divisions of Circuit Court certified by the Clerk of the Supreme Court of Kentucky as family court divisions. Prior to the first Wednesday after the first Monday in November of each scheduled election year, the Clerk of the Supreme Court of Kentucky shall certify the divisions of Circuit Court within a judicial circuit that are designated as family court divisions and deliver such certification to the Secretary of State.

(3) In judicial circuits having two (2) or more judges there shall be, for election purposes, numbered divisions corresponding to the number of Circuit Judges in the circuit. Each judge shall be elected at large from the entire circuit.

(4) Each numbered division of a circuit shall be voted upon and shall be tallied separately.

Section 4. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) *Fifth Judicial Circuit*[~~Second Judicial Circuit~~].

(2) Sixth Judicial Circuit.

(3) Eleventh Judicial Circuit.

(4) Twelfth Judicial Circuit.

(5) Fourteenth Judicial Circuit.

(6) *Eighteenth*[~~Seventeenth~~] Judicial Circuit.

(7) Twenty-first Judicial Circuit.

(8) Twenty-fourth Judicial Circuit.

(9) Twenty-seventh Judicial Circuit.

(10) Thirty-second Judicial Circuit.

(11) Thirty-fourth Judicial Circuit.

(12) *Thirty-seventh Judicial Circuit.*

(13) Forty-first Judicial Circuit.

(14)[~~(13)~~] *Forty-third Judicial Circuit.*

(15) Forty-sixth Judicial Circuit.

(16)[~~(14)~~] *Fiftieth Judicial Circuit.*

(17) Fifty-first Judicial Circuit.

(18)[~~(15)~~] Fifty-fourth Judicial Circuit.

Section 5. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

(1) ***Second Judicial Circuit.***
(2) Third Judicial Circuit.
(3)[~~(2)~~] Eighth Judicial Circuit.
(4)[~~(3)~~] Ninth Judicial Circuit.
(5)[~~(4)~~] ***Seventeenth***[~~Twenty-fifth~~] Judicial Circuit.
(6)[~~(5)~~] Twenty-eighth Judicial Circuit.
(7)[~~(6)~~] Thirty-first Judicial Circuit.
(8)[~~(7)~~] Thirty-fifth Judicial Circuit.
(9)[~~(8)~~] Forty-eighth Judicial Circuit.

Section 6. KRS 23A.050 is amended to read as follows:

The ***following judicial circuits are***[~~Sixteenth Judicial Circuit is~~] entitled to four (4) judges and shall have four (4) numbered divisions of the Circuit Court***:***

(1) Sixteenth Judicial Circuit.
(2) Twenty-fifth Judicial Circuit.

Section 7. KRS 23A.060 is amended to read as follows:

The Twenty-second Judicial Circuit is entitled to ***nine (9)***[~~eight (8)~~] judges and shall have ***nine (9)***[~~eight (8)~~] numbered divisions of the Circuit Court.

Section 8. KRS 23A.070 is amended to read as follows:

The Thirtieth Judicial Circuit is entitled to ***twenty-three (23)***[~~seventeen (17)~~] judges and shall have ***twenty-three (23)***[~~seventeen (17)~~] numbered divisions of the Circuit Court.

Section 9. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1) ***Second Judicial District.***
(2) Third Judicial District.
(3)[~~(2)~~] Fourth Judicial District.
(4)[~~(3) Fifth Judicial District.~~
~~(4)~~] Ninth Judicial District.
(5) Eleventh Judicial District.
(6) Twelfth Judicial District.
(7) Thirteenth Judicial District.
(8) Fourteenth Judicial District.
(9) Fifteenth Judicial District.
(10) ***Seventeenth***[~~Eighteenth~~] Judicial District.
(11) Twenty-first Judicial District.
(12) Twenty-fourth Judicial District.
(13) ***Twenty-fifth Judicial District.***
(14) Twenty-seventh Judicial District.
(15)[~~(14)~~] Twenty-eighth Judicial District.
(16)[~~(15)~~] Thirty-first Judicial District.
(17)[~~(16)~~] Thirty-second Judicial District.
(18)[~~(17)~~] Thirty-fourth Judicial District.
(19)[~~(18)~~] Thirty-fifth Judicial District.
[~~(19) Thirty-seventh Judicial District.~~]
(20) Thirty-eighth Judicial District.

(21) Fortieth Judicial District.

(22) Forty-first Judicial District.

(23)[~~Forty-third Judicial District.~~

~~(24)~~] Forty-sixth Judicial District.

(24)[~~(25)~~] Forty-eighth Judicial District.

(25)[~~(26) Fiftieth Judicial District.~~

~~(27)~~] Fifty-first Judicial District.

(26)[~~(28)~~] Fifty-third Judicial District.

(27)[~~(29)~~] Fifty-fourth Judicial District.

(28)[~~(30)~~] Fifty-fifth Judicial District.

(29)[~~(31)~~] Fifty-sixth Judicial District.

Section 10. KRS 24A.060 is amended to read as follows:

The following judicial districts are entitled to three (3) District Judges and shall have three (3) numbered divisions of the District Court:

(1)[~~Second Judicial District.~~

~~(2)~~] Sixth Judicial District.

(2)[~~(3)~~] Eighth Judicial District.

[~~(4) Seventeenth Judicial District.~~

~~(5) Twenty-fifth Judicial District.~~]

Section 11. KRS 24A.080 is amended to read as follows:

The Twenty-second Judicial District is entitled to *five (5)*[~~six (6)~~] District Judges and shall have *five (5)*[~~six (6)~~] numbered divisions of the District Court.

Section 12. KRS 24A.090 is amended to read as follows:

The Thirtieth Judicial District is entitled to *seventeen (17)*[~~twenty-three (23)~~] District Judges and shall have *seventeen (17)*[~~twenty-three (23)~~] numbered divisions of the District Court.

Section 13. KRS 23A.010 is amended to read as follows:

(1) The Circuit Court is a court of general jurisdiction; it has original jurisdiction of all justiciable causes not exclusively vested in some other court.

(2) The Circuit Court has appellate jurisdiction as specified in this chapter.

(3) The Circuit Court is a court of record and of continuous session.

(4) The Circuit Court may be authorized by law to review the actions or decisions of administrative agencies, special districts or boards. Such review shall not constitute an appeal but an original action.

[~~(5) Whenever the Chief Justice by order pursuant to Section 110(5) (b) of the Constitution of Kentucky or the Supreme Court pursuant to Section 116 of the Constitution of Kentucky shall establish a family court within a judicial circuit, the Circuit Court shall exercise concurrent jurisdiction, or as the Chief Justice or Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.~~]

Section 14. KRS 24A.010 is amended to read as follows:

(1) The District Court is a court of limited jurisdiction; it has original jurisdiction in all matters specified in KRS 24A.110 to 24A.130.

(2) The District Court may be authorized by law to adjudicate the actions or decisions of local administrative agencies, special districts, or boards. Such adjudication shall not constitute an appeal but an original action.

(3) The District Court has no appellate jurisdiction.

(4) The District Court is a court of record.

(5) The District Court is a court of continuous session. Sessions of the District Court may be scheduled at such times, including nights, weekends, and holidays, and at such locations, as may be convenient, subject to the direction of the Supreme Court by rule or order.

[~~(6) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a family court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.~~]

Section 15. KRS 24A.120 is amended to read as follows:

(1) District Court shall have exclusive jurisdiction in:

(a) Civil cases in which the amount in controversy does not exceed four thousand dollars ($4,000), exclusive of interest and costs, except matters affecting title to real estate and matters of equity; however, nothing herein shall prohibit execution levy on real estate in enforcement of judgment of District Court;

(b) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in Circuit Court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal; and

(c) Matters not provided for by statute to be commenced in Circuit Court shall be deemed to be nonadversarial within the meaning of paragraph (b) of this subsection and therefore are within the jurisdiction of the District Court.

~~[(2) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a family court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the family court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.]~~

Section 16. KRS 22A.020 is amended to read as follows:

(1) Except as provided in Section 110 of the Constitution, an appeal may be taken as a matter of right to the Court of Appeals from any conviction, final judgment, order, or decree in any case in Circuit Court, ***including a family court division of Circuit Court,*** unless such conviction, final judgment, order, or decree was rendered on an appeal from a court inferior to Circuit Court.

(2) The Court of Appeals has jurisdiction to review interlocutory orders of the Circuit Court in civil cases, but only as authorized by rules promulgated by the Supreme Court.

(3) Notwithstanding any other provision in this section, there shall be no review by appeal or by writ of certiorari from that portion of a final judgment, order or decree of a Circuit Court dissolving a marriage.

(4) An appeal may be taken to the Court of Appeals by the state in criminal cases from an adverse decision or ruling of the Circuit Court, but only under the following conditions:

(a) Such appeal shall not suspend the proceedings in the case.

(b) Such appeal shall be taken in the manner provided by the Rules of Criminal Procedure and the Rules of the Supreme Court, except that the record on appeal shall be transmitted by the clerk of the Circuit Court to the Attorney General; and if the Attorney General is satisfied that review by the Court of Appeals is important to the correct and uniform administration of the law, he may deliver the record to the clerk of the Court of Appeals within the time prescribed by the above-mentioned rules.

(c) When an appeal is taken pursuant to this subsection, the Court of Appeals, if the record so warrants, may reverse the decision of the Circuit Court and order a new trial in any case in which a new trial would not constitute double jeopardy or otherwise violate any constitutional rights of the defendant.

(5) Any party aggrieved by the judgment of the Circuit Court in a case appealed from a court inferior thereto may petition the Court of Appeals for a writ of certiorari.

Section 17. KRS 118A.010 is amended to read as follows:

~~[(1)]~~As used in this chapter, ***unless*** the ***context otherwise requires:***~~[word "election" refers only to elections for offices of the Court of Justice.]~~

(1)~~[(2)]~~ ~~[A]~~"Ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, a special ballot, or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general***,*** or special election by the Secretary of State or the county clerk***;***~~[.]~~

(2)~~[(3)]~~ ***"Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting device or by marking with a pen or special marking device;***~~["Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.]~~

(3)~~[(4)]~~ ***"Ballot label" means the cards, papers, booklet, pages, or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines;***~~["Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.]~~

(4)~~[(5)]~~ ***"Election" refers only to elections for offices of the Court of Justice; and***

(5) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting his vote in an election.

~~[(6)]~~No provisions of KRS Chapter 118 existing on March 10, 1976, except KRS 118.015 through 118.045 shall apply to such elections. All other provisions of the election laws not inconsistent with this chapter shall be applicable thereto.

HJR 75, A JOINT RESOLUTION relating to the Criminal Justice Council.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Criminal Justice Council is directed to submit to the Interim Joint Committee on Judiciary not later than July 1, 2003, the following:

(1) An accounting of all moneys received, by origin and amount, since July, 15, 1998;

(2) An accounting of all moneys expended, by object and amount, since July 15, 1998;

(3) A list of all matters, studies, and other projects assigned to the council by the General Assembly by statute since July 15, 1998, and the results of each;

(4) A list of all matters, studies, and other projects assigned to the council by the General Assembly by resolution since July 15, 1998, and the results of each;

(5) A list of all matters, studies, and other projects assigned to the council by the Governor since July 15, 1998, and the results of each;

(6) A list of all matters, studies, and other projects assigned to the council by agencies of the Justice Cabinet or other agency of state government since July 15, 1998, and the results of each;

(7) A list of all matters, studies, and other projects assigned to the council, a committee, or subcommittee thereof by the council itself or a committee or subcommittee thereof since July 15, 1998, and the results of each;

(8) A copy of each final report or recommendation made by the council since July 15, 1998;

(9) Any final action or recommendations of the council on a Uniform Criminal Justice Information System and its relation to 1986 Ky. Acts ch. 389, Uniform Offense Report Codes, and the National Incident-Based Reporting System (NIBRS); and

(10) A report of staff turn-over since July 15, 1998, listing staff hired and date, staff departed or terminated and date.

Section 2. The Chairman of the Criminal Justice Council is directed to appear before the Interim Joint Committee on Judiciary at the September meeting of the committee to discuss the material listed above and answer other questions which may be put to the Chairman by the committee.

Section 3. The Executive Director of the Criminal Justice Council is directed to appear before the Interim Joint Committee on Judiciary at the September meeting of the committee to discuss the material listed above and answer other questions which may be put to the Executive Director by the committee.

HJR 102, A JOINT RESOLUTION authorizing Mark Herres to bring a civil action against the Commonwealth and appropriate state agencies.

WHEREAS, the courts of the Commonwealth provide a convenient and open forum for the resolution of disputes that is particularly well suited for the taking and hearing of evidence in matters concerning real property; and

WHEREAS, the Commonwealth, in holding and managing real property, desires to act fairly and equitably toward adjoining property owners as the Commonwealth seeks to properly manage the people's land; and

WHEREAS, a dispute currently exists regarding the right of Mark Herres to utilize certain passways over real property making up the Natural Bridge State Resort Park held by the Commonwealth of Kentucky to reach a parcel of real property owned by Mark Herres situated between the Natural Bridge State Resort Park and the Daniel Boone National Forest, said real property having previously been known as the "Watkins Tract" and the "Pace Tract"; and

WHEREAS, the Commonwealth desires that the dispute be resolved in a fair and impartial manner so as to bring justice to both parties and that this might be accomplished by utilization of the Court of Justice should negotiations between the parties fail;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Mark Herres is authorized to bring a civil action against the Commonwealth of Kentucky and any appropriate state agencies in regard to that certain parcel of land owned by Mark Herres in Powell County, Kentucky, situated between the Daniel Boone National Forest and Natural Bridge State Resort Park, the same having been conveyed to him by Mr. Loyd B. Pace and Etta M. Pace, with the civil action including an adjudication of the rights and titles of the parties in relation to the aforementioned passways across the Natural Bridge State Resort Park.

Section 2. In authorizing the civil action, the Commonwealth does not preclude Mark Herres or the Commonwealth from raising additional claims for relief which do not require the authorization of the Commonwealth to bring, which claims relate to the dispute between the parties in regard to the passways over the Natural Bridge State Resort Park, if the additional claims for relief may be brought pursuant to the rules of civil procedure.

Section 3. Notwithstanding any other provision of law to the contrary, jurisdiction and venue for this action shall be in the Circuit Court of Powell County.

Section 4. The right to bring the action granted under Section 1 of this joint resolution includes the right to request and be granted injunctive relief, if appropriate, and the right of appeal if the appeal is otherwise allowed by law.

Section 5. The Clerk of the House is directed to transmit a copy of this resolution to Mark Herres, 705 Taywood Road, Englewood, OH 45322, the Hon. F. C. Bryan, P.O. Box 1426, Mt. Sterling, KY, 40353-5425, the Attorney General of the Commonwealth of Kentucky, 700 Capitol Avenue, Suite 118, Frankfort, KY, 40601, and the Kentucky Department of Parks, Capital Plaza Tower, 500 Metro Street, Suite 1100, Frankfort, KY 40601-1974.

HJR 111, A JOINT RESOLUTION recognizing March 18, 2003, as "Gideon Day" throughout the Commonwealth of Kentucky.

WHEREAS, Earl Gideon, a 51-year-old man with an eighth-grade education, was charged with breaking into a Florida poolroom on June 3, 1961, and stealing coins from a cigarette machine; and

WHEREAS, having plead innocent, Gideon's request for counsel was denied by the State of Florida trial judge; and

WHEREAS, Gideon was forced to defend himself against the case presented by the state's prosecuting attorney by attempting to cross-examine the witnesses against him, make legal arguments, and otherwise plead in a tribunal with procedures unfamiliar to lay persons; and

WHEREAS, Gideon was convicted of felony breaking and entering with intent to commit a misdemeanor, and was sentenced to five years in state prison; and

WHEREAS, Gideon submitted a handwritten petition to the United States Supreme Court from his Florida prison cell, arguing that the United States Constitution does not allow poor people to be convicted and sent to prison without legal representation; and his position was supported in an *amicus* brief filed by 22 state attorneys general; and

WHEREAS, on March 18, 1963, the Supreme Court unanimously ruled that Gideon's trial and conviction without the assistance of counsel was fundamentally unfair and violated the Sixth and Fourteenth Amendments to the United States Constitution, stating as an obvious truth that, "in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him"; and

WHEREAS, at his retrial with the assistance of counsel, Clarence Earl Gideon was found to be not guilty, partly as a result of appointed counsel's cross-examination of the taxi cab driver upon whose testimony Gideon had been convicted at the first trial; and

WHEREAS, as a result of the *Gideon* decision, all states are now obligated to provide court-appointed counsel to persons who have been charged with a crime and who are too poor to afford an attorney; and

WHEREAS, later Supreme Court decisions have further expanded the states' obligation to provide counsel to accused individuals who cannot afford to hire a private attorney including most recently misdemeanor defendants receiving a suspended sentence; and

WHEREAS; this obligation exists even as state budget revenues shrink and the pressure to cut expenditures grows; and

WHEREAS, 40 years after the Supreme Court's decision, implementation of the right to counsel is uneven across the nation in terms of quality of representation, funding, staffing, training, caseloads, and timeliness of appointment; and

WHEREAS, the importance of the promise of the Supreme Court's ruling in Gideon's case of equal justice has been reaffirmed by recent exonerations of the innocent as a result of DNA evidence, and revelations of deficient and under-funded indigent defense systems; and

WHEREAS, Kentucky has long recognized the right to counsel in Section 10 of the Kentucky Constitution and the decisions of our appellate courts; and

WHEREAS, Kentucky's highest court in 1948 stated that "common justice demands" that an attorney must be appointed when a person charged with a felony cannot afford to hire his own counsel; and

WHEREAS, while members of the Kentucky Bar have long represented indigents accused of crimes at little or no fee for many years, Kentucky courts have held that forcing lawyers to represent poor persons charged with a crime without compensation is unconstitutional; and

WHEREAS, the Department of Public Advocacy was created in 1972, when House Bill 461 passed the General Assembly at the request of Governor Wendell Ford, in order to implement fully in Kentucky the mandates of the decision in Gideon's case; and

WHEREAS, most recently in 1999, a Blue Ribbon Group of experts found that the Kentucky public defender system was the poorest funded system in the country in terms of defender salaries, funding per case, and funding per capita; and

WHEREAS, much progress has been made since 1999, but that recent budget reductions coupled with an increase in caseload threaten to undermine that progress; and

WHEREAS, the Department of Public Advocacy today represents over 108,000 persons each year who cannot afford to hire an attorney to represent them; and

WHEREAS, Kentucky's public defenders, both public and private, number over 400 lawyers and staff, and include persons who have made representing the poor their career and vocation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby recognizes March 18, 2003, as "Gideon Day" throughout the Commonwealth of Kentucky.

Section 2. Kentucky hereby rededicates itself to the principle of equal justice for all regardless of income.

Section 3. Officials of Kentucky, including representatives of prosecutors' offices, public defenders' offices, the bar, the courts, and the schools, are encouraged to engage in appropriate commemorative activities to educate the public about the importance of equal access to justice in our great democracy and the mandates of the Supreme Court's decision in Gideon's case even in the face of periodic budgetary constraints.

Section 4. The House of Representatives hereby salutes public defenders and their staff throughout the Commonwealth of Kentucky for their dedication to public service.

Section 5. The Clerk of the House of Representatives shall cause commemorative copies of this Resolution to be printed and made available to government agencies, schools, and the public, to promote ongoing understanding of, and commitment to, the fulfillment of Gideon's promise.

Motions, Petitions, and Communications (Continued)

Representative Stumbo moved that **HB 287** be recommitted to the Committee on Banking and Insurance. Agreed.

Representative Stumbo moved that **HB 119** be taken from the Committee on Appropriations and Revenue and placed in the Regular Orders of the Day for Thursday, February 20, 2003. Agreed.

Representative Stumbo moved that **HB 99** be placed in the Regular Orders of the Day for Thursday, February 20, 2003. Agreed.

Representative Nunn moved the adoption of the following **HR 79**:

HB 79, A RESOLUTION relating to current military actions of the United States Armed Forces.

WHEREAS, the President of the United States has activated and deployed numerous men and women of the armed forces from the Commonwealth of Kentucky to assignments and missions related to the ongoing global war on terror and the current crisis in Iraq; and

WHEREAS, the citizens of the Commonwealth of Kentucky have achieved world wide renown for their zeal and patriotism in answering their nation's call to duty, whenever the cause of freedom and justice is threatened by foreign tyrants and aggressors; and

WHEREAS, the uniformed men and women of our Commonwealth are once again called upon to offer their utmost devotion in the defense of their country and to bring peace to a troubled corner of the Earth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This body wholeheartedly supports the brave men and women of the Commonwealth serving in the United States military and wishes them Godspeed in their dangerous missions and a safe return from harm's way.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to members of the Kentucky Congressional Delegation.

There being no objection **HR 79** was adopted.

Representative Feeley moved the adoption of the following **Legislative Citation No. 36**.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to the memory of Christopher L. Luvisi, Ed.D. and joins Representative Tim Feeley in expressing deepest sympathy to all who mourn his passing. The son of Lawrence and Mary Luvisi, he is survived by his cherished wife, Anne O'Connor Luvisi; beloved children, Connor and Catherine; and, a host of other family members, friends and loved ones. A graduate of St. Xavier High School, the University of Kentucky and the University of Louisville, where he obtained both his master's and doctorate in education, Mr. Luvisi was a tireless advocate of excellence in education within this Commonwealth and earned the admiration and respect of all those who benefited from his astute leadership and guidance. Beginning his career as an educator in the Bardstown City School System, he went on to serve as the beloved principal of Goshen Elementary School in Oldham County, where he played an instrumental role in the school receiving the 2000 National School of Excellence Award before his retirement; as an employee of the Kentucky Department of

Education, where he served as a consultant for the Primary Program, part of the Kentucky Education Reform Act; as the director of Project Discovery for the Ohio Valley Education Cooperation; and, as a member and president of the Kentucky Association for Gifted Education. In addition, he served as a football official for the KFOA for thirteen years, an endeavor which earned him the Howard Turley President's Award in 2001; and was a devoted member of the Transfiguration of Our Lord Catholic Church. Honored as the recipient of numerous accolades including the Louisville Writing Projects Patronus Award and the National Council of Teachers of English Outstanding Leadership Award, he leaves behind a legacy of service within his community and this Commonwealth that is without parallel. Christopher L. Luvisi will long be remembered for the many lasting contributions he made on behalf of his family, profession and community and will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this nineteenth day of February, in the year two thousand and three.

Legislative Citation No. 36 was adopted without objection.

Representative Meeks moved the adoption of the following **HR 18**:

HR 18, A RESOLUTION honoring the work of the Sunshine Seniors.

WHEREAS, it is the responsibility of this body to acknowledge the contributions of groups within the Commonwealth who enrich the lives of Kentuckians; and

WHEREAS, the Sunshine Seniors are the largest organization for African-American senior citizens in the Commonwealth, boasting more than 160 members; and

WHEREAS, the Sunshine Seniors were established in 1997 with a mission to enhance the livelihood of seniors through community involvement, recreation, arts and crafts, and travel; and

WHEREAS, the Sunshine Seniors seek to enlighten the path for others to follow; and

WHEREAS, the Sunshine Seniors have provided annual scholarships to African-American achievers; and

WHEREAS, the Sunshine Seniors have participated in a volunteer summer reading program for at-risk children; and

WHEREAS, the Sunshine Seniors have sponsored 32 boys, enabling the boys to attend summer camp; and

WHEREAS, the Sunshine Seniors have volunteered for the Clothe-A-Child Christmas program; and

WHEREAS, the Sunshine Seniors have contributed to the angel tree program for the children of women incarcerated at Pee Wee Valley; and

WHEREAS, the Sunshine Seniors have assisted victims of domestic violence through the Women and Children Agency; and

WHEREAS, the Sunshine Seniors have contributed necessities for the residents of the James Taylor Nursing Home; and

WHEREAS, the Sunshine Seniors have donated 50 dolls from their arts and crafts division to the Home of the Innocents; and

WHEREAS, the Sunshine Seniors have contributed to the Grandparents Raising Grandchildren program; and

WHEREAS, the Sunshine Seniors have contributed to the Saint Williams Adult Day Care Center; and

WHEREAS, the Sunshine Seniors contribute to the health and well-being of other seniors by providing blood pressure screenings at senior institutions; and

WHEREAS, the Sunshine Seniors continue to make valuable contributions to the citizens of Jefferson County and the Commonwealth; and

WHEREAS, the Sunshine Seniors have named Representative Reginald Meeks as an honorary member;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby express its genuine appreciation to the Sunshine Seniors for their tireless and diligent devotion to senior citizens and all citizens of the Commonwealth.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Sunshine Seniors at 1800 West Muhammad Ali Boulevard, Louisville, Kentucky 40202.

There being no objection **HR 18** was adopted.

Representative Graham moved the adoption of the following **HR 128**:

HR 128, A RESOLUTION honoring the members, families, and employers of the Kentucky Army and Air National Guard.

WHEREAS, the Kentucky Army and Air National Guard stand ready to defend the lives and property of the citizens of the Commonwealth of Kentucky and to defend this nation; and

WHEREAS, there are members of the Kentucky Army and Air National Guard at this moment serving in the War on Terrorism here in the Commonwealth of Kentucky, across the United States of America and around the world, including Afghanistan; and

WHEREAS, these citizen-soldiers make great personal and professional sacrifices to serve our Commonwealth and nation; and

WHEREAS, the families of these soldiers and airmen endure not only the hardship of separation, but offer the greatest gift they possess in defense of this nation - the life of their loved ones; and

WHEREAS, the employers of these soldiers and airmen have gone above and beyond the call of duty with their support of the Kentucky National Guard mission;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this honorable body, both individually and collectively, recognize and applaud the devotion to duty, bravery, and self sacrifice of the members of the Kentucky Army and Air National Guard.

Section 2. The members of this honorable body, both individually and collectively, recognize and honor the commitment and sacrifice that is made by the families and loved ones of the Kentucky Army and Air National Guard, allowing them to serve our great Commonwealth and Nation in this time of national need.

Section 3. The member of this honorable body, both individually and collectively, applaud the employers of Kentucky National Guard soldiers and airmen for their outstanding patriotism and support.

Section 4. The members of this honorable body, both individually and collectively, declare their most sincere thanks and heartfelt gratitude to the men and women of the Kentucky Army and Air National Guard and to their families and loved ones for their great gift of service and sacrifice.

Section 5. The Clerk of the House of Representatives is hereby directed to transmit 60 copies of this Resolution to MG D. Allen Youngman, The Adjutant General, Boone National Guard Center, Frankfort, Kentucky 40601 for display in the Kentucky Army and Air National Guard armories and installations across the Commonwealth.

There being no objection **HR 128** was adopted.

Representative Stumbo moved that the rules be suspended to act on a Resolution. Agreed.

Representative T. Thompson moved the adoption of the following **HR 152**:

HR 152, A RESOLUTION adjourning the House of Representatives in loving memory and honor of J. R. Miller.

With deepest respect and admiration, we pay homage and tribute to our mentor, friend, and colleague, J. R. Miller, and we pause in silent reverence for his soul.

WHEREAS, J. R. Miller of Owensboro, Daviess County, Kentucky, crossed that final bourne from which no traveller returns on February 18, 2003; and

WHEREAS, J. R. Miller will best be remembered as a friend and dedicated member of the Democrat Party, and when we reflect upon his memory, we remember him as a confidant to many governors and legislators; his genius was sought by many, he served as an inspiration to his peers through his endless efforts and tireless commitment to the causes and beliefs he steadfastly supported, and he was a bulwark upon which his fellow Kentuckians could depend; and

WHEREAS, the passion, dedication, intelligence, and social consciousness J. R. Miller brought to this great Commonwealth are beyond measure and will have lasting impact; and

WHEREAS, the passing of J. R. Miller has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of bereavement upon the passing of J. R. Miller, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of J. R. Miller.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. J. R. Miller, 256 Wesleyan Place, Owensboro, Kentucky 42303.

There being no objection **HR 152** was adopted.

The roll call was opened for co-sponsors and on the roll call the vote for co-sponsors of **HR 152** was: **Yeas 77**. (See February 19, 2003, roll call to show co-sponsors on **HR 152**-Appendix.)

Representative Comer moved the adoption of the following **HR 148**:

HR 148, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lucy Bowles-Gleason.

With deepest respect and admiration, we pay homage and tribute to Lucy Bowles-Gleason, and we pause in silent reverence for her soul.

WHEREAS, Lucy Bowles-Gleason was born on October 12, 1929, a native of Monroe County, Kentucky, and longtime resident of Metcalfe County, Kentucky, and she traversed these earthly bounds on January 23, 2003; and

WHEREAS, Lucy Bowles-Gleason was the loving daughter of the late Clarence and Orpha Ellen Proffitt Emberton, and she was also preceded in death by two former husbands, Duard N. Bowles and Wayne Hale, and a son, Anthony Wayne Hale; she was the devoted wife of Harold C. "Herb" Gleason; she was the adored mother of four daughters, Sharon Bowles Howard of Edmonton, Carolyn Bowles Sorrell of Hopkinsville, Connie Goodman of Elizabethtown, and Kaye Bowles-Durnell of Louisville; she was the proud grandmother of five granddaughters, Ellen Howard, Laurie Sorrell Pemberton, Leslie Sorrell Hosford, Lee Ann Sorrell, and Susan Goodman; and two great-grandchildren, Carson and Chase Pemberton; and she also leaves behind two loving sisters, Isabelle Gill of Tompkinsville and Naomi Embry of Louisville, and three loving brothers, Louis Emberton, Douglas R. Emberton, and Jimmy Emberton, all of Louisville; and

WHEREAS, Lucy Bowles-Gleason was an esteemed member of the Metcalfe County community where she was a devout member of Edmonton Baptist Church, where her funeral service was held on January 27, 2003; she diligently served as the Metcalfe County Property Valuation Administrator for 24 years; and she will be sorely missed by her family, friends, and colleagues; and

WHEREAS, the passing of Lucy Bowles-Gleason has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Lucy Bowles-Gleason, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lucy Bowles-Gleason.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Harold C. Gleason, 313 Skyline Drive, Edmonton, Kentucky 42129.

There being no objection **HR 148** was adopted.

Representative Marcotte moved that **HB 207** be withdrawn. Agreed.

Representative Gray moved that **HB 354** be withdrawn. Agreed.

Representative Stumbo moved that **HB 556** be withdrawn. Agreed.

Representative Sims moved that **HB 554** be withdrawn. Agreed.

Representative Nunn moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Nunn moved that he be recorded as voting "yea" on **HB 56**(vote recorded prior to bill being reported out of committee), **63, 81,** and **237**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that he be recorded as voting "yea" on **HB 11**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gooch moved that he be recorded as voting "yea" on **HB 41**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **HJR 13**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 145**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **HB 50**. Agreed.

Representative Denham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Denham moved that he be recorded as voting "yea" on **HB 298** and **299**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **HB 114**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "nay" on **HJR 83**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 114**. Agreed.

Representative Stumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stumbo moved that he be recorded as voting "yea" on **HB 145**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Damron moved that he be recorded as voting "yea" on **HB 30, 46, 117, 206, 38, 51, 109, 124, 131, 132, 144, 194,** and **270**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 304**, by Representative Stumbo:

HB 304, On page 2, after line 27, insert the following:

"***(6) The provisions of subsections (3) and (4) of this section relating to encroachment permits for county roads shall not apply to companies regulated by the Public Service Commission.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 320**, by Representative Siler:

HB 320, On page 1, line 6, after "***credit***" by inserting "***not to exceed seven (7) years***".

Floor Amendment No. 3 to the Committee Substitute to **HB 287**, by Representative Webb:

HB 287, "On page 23, after line 16 by inserting the following:

"***(n) A lender shall not refinance, replace, or consolidate an existing home loan if the primary tangible benefit of the refinancing to the borrower is an interest rate lower than the interest rate on debts satisfied or refinanced in connection with the home loan, and it will take more than four (4) years for the borrower to recoup the costs of the points and fees and other closing costs through savings resulting from the lower interest rate.***"; and

On page 23, line 17, by deleting "***(n)***" and inserting "***(o)***"; and

On page 23, line 20, by deleting "***(o)***" and inserting "***(p)***"; and

On page 23, line 27, by deleting "***(p)***" and inserting "***(q)***"; and

On page 24, line 7, by deleting "***(q)***" and inserting "***(r)***"; and

On page 24, line 16, by deleting "***(r)***" and inserting "***(s)***"; and

On page 24, line 20, by deleting "***(s)***" and inserting "***(t)***"; and

On page 25, line 2, by deleting "***(t)***" and inserting "***(u)***"."

Floor Amendment No. 4 to the Committee Substitute to **HB 287**, by Representative Webb:

HB 287, On page 19, line 8, by deleting everything on the line after "***be subject***" and by deleting lines 9 and 10 in their entirety and inserting in lieu thereof "***to all claims and defenses that a person who purchases or is otherwise assigned a mortgage as defined under section 152 of the Home Ownership and Equity Protection Act, 15 U.S.C. 1602(aa), and regulations adopted thereto by the federal reserve board, 12 CFR 226.32, as either may be amended from time to time, subject to the limitations and requirements set forth in 15 U.S.C. 1641(d), as may be amended from time to time.***".

Floor Amendment No. 3 to **HB 258**, by Representative Jenkins:

HB 258, On page 1, line 8, remove all underlined language; and

On page 2, after line 17, add the following new language:

"***(6) Local air boards formed under KRS Chapter 183 shall advertise for bids as required in subsection (1) of this section by newspaper or Internet.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

Local air boards formed under this chapter shall advertise for bids by newspaper or Internet in accordance with the provisions of Section 1 of this Act.".

Floor Amendment No. 1 to **HB 191**, by Representative Crimm:

HB 191, On page 5, after line 23, by inserting:

"***(3) This section shall not apply to any transactions involving Kentucky motor vehicle dealers who are licensed as required by KRS 190.030.***".

Floor Amendment No. 1 to **HB 114**, by Representative A. Smith:

HB 114, On page 1, after line 19, by inserting the following:

"Section 2. Within thirty (30) days of the effective date of this Act, the Secretary of Transportation shall remove all tolls from the Daniel Boone Parkway.".

Floor Amendment No. 1 to **HB 364**, by Representative Cherry:

HB 364, On page 16, after line 5 add the following:

Section 7. KRS 21.580 is amended to read as follows:

(1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:

(a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75), may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation", notwithstanding any provision to the contrary, for all members retiring under any provision of KRS 21.345 to 21.570 or this section, or similar statutes governing the same positions, as defined in KRS 21.400 shall be based on a period of thirty-six (36) months. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21, but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.

(b) A Justice of the Supreme Court, Judge of the Kentucky Court of Appeals, Circuit Court Judge, or District Court Judge, who did not elect to participate in the Kentucky Judicial Retirement Plan under KRS 21.360 but who is a participant in the Kentucky Retirement Systems, whose age and years of service total at least seventy-five (75) may retire and elect, within ninety (90) days, to participate in the "Senior Status Program for Special Judges," if he or she complies with the provisions of this subsection. If complying, the retired judge shall be entitled to a supplemental service retirement allowance from the Judicial Retirement Plan, commencing at the member's normal retirement age. The supplemental allowance shall be in an amount equal to two and one quarter percent (2.25%) of the final compensation under KRS 61.680(2)(a) multiplied by the number of years of judicial service only. The supplemental benefit shall be limited to the difference in the annual Kentucky Retirement System benefit and the final compensation on which it is calculated.

(c)[~~1.~~] In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status

Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one (1) or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.

(d)~~[2.]~~ Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five (5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.

(e)~~[3.]~~ Subject to Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.

(2)~~[(b)]~~ The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that KRS 21.580 is effective; however, no other provisions of 2000 Ky. Acts ch. 305 shall be considered subject to an inviolable contract of the Commonwealth.

(3)~~[(c)]~~Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age."

(4)~~[(2)]~~ The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on July 14, 2000, and who subsequently retires as a Senior Status Special Judge on or before January 31, 2009.

Floor Amendment No. 1 to **HB 74**, by Representative Damron:

HB 74, On page 4, line 26, after the word "***Kentucky.***", add the following new language:

"***However, this exemption shall not apply if the bonds, leases, or other debt instruments are issued for profit or on behalf of for-profit or private organizations.***".

Floor Amendment No. 5 to the Committee Substitute to **HB 287**, by Representative Webb:

HB 287, On page 18, line 22, after "***5.***" by inserting "***The terms of the loan exceed either or both of the following thresholds:***

a."; and

On page 19, line 3, after "***time to time***" by inserting "***or:***

b. The total points and fees payable by the borrower at or before the loan closing exceed six percent (6%) of the total loan amount."; and

On page 19, after line 10, by adding:

"***(c) "Total points and fees payable by the consumer at or before the loan closing" means points and fees as defined in 12 CFR 226.32(b)(1), as the same may be amended from time to time.***

(d) "Total loan amount" means the same as the term "total loan amount" is defined in 12 CFR 226.32(a)(1)(iii), as the same may be amended from time to time, and the same shall be calculated in accordance with the federal reserve board's official staff commentary thereto.".

Floor Amendment No. 6 to the Committee Substitute to **HB 287**, by Representative Webb:

HB 287, On page 22, line 16, after "***finance***" by adding "***any prepayment fees or penalties payable by the borrower.***"; and

On page 22, by deleting lines 17 to 20 in their entirety; and

On page 25, after line 4, by adding :

"***(u) No lender making a high-cost home loan may directly or indirectly finance any points or fees.***".

Floor Amendment No. 7 to the Committee Substitute to **HB 287**, by Representative Webb:

HB 287, On page 25, line 22, after "***both.***" by adding "***In the case of any successful action to enforce the provisions of this section, in addition to damages available under this chapter or KRS Chapter 367, the person seeking damages or penalties shall be entitled to a reasonable attorney's fee as determined by the court.***".

Floor Amendment No. 1 Title to **HB 427**, by Representative Jenkins:

HB 427, Amend the title to read as follows: "AN ACT relating to in-service training requirements for local government employees mobilized for service in the United States Armed Forces."

Floor Amendment No. 1 to **HB 418**, by Representative Upchurch:

HB 418, On Page 1, line 25, after "be", by inserting and underlining "***elected by the board***"; and Continuing on that same line, by bracketing and striking through "the state fire marshal".

Floor Amendment No. 1 to the Committee Substitute to **HB 390**, by Representative Napier:

HB 390, On page 2, line 3, after "***KRS 131.600.***" by inserting "***For the purposes of Sections 1 to 14 of this Act, the term "tobacco product manufacturer" shall not include a tobacco product manufacturer who is organized, exists, transacts their business, produces tobacco products and has their principal place of business in Kentucky.***"

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representatives Bather and Riner

HB 57, Representatives Reinhardt and Riner

HB 69, Representative Riner

HB 70, Representative Riner

HB 72, Representative Riner

HB 77, Representative Riner

HB 88, Representative Riner

HB 105, Representative Riner

HB 110, Representative Riner

HB 112, Representative Riner

HB 118, Representative Riner

HB 135, Representative Riner

HB 143, Representative Riner

HB 150, Representative Riner

HB 161, Representative Riner

HB 174, Representative Draud

HB 180, Representative Graham

HB 181, Representative Riner

HB 197, Representative Riner

HB 228, Representative Riner

HB 237, Representatives Reinhardt and Riner

HB 239, Representative Riner

HB 240, Representatives Nunn and Riner

HB 243, Representative S. Lee

HB 246, Representative Riner

HB 251, Representative Reinhardt

HB 278, Representative Meeks

HB 287, Representative Hoffman

HB 299, Representative Marzian

HB 303, Representatives Riner and Weaver

HB 308, Representative Riner

HB 309, Representative Riner

HB 310, Representative Riner

HB 313, Representative Riner

HB 331, Representative Riner

HB 344, Representative Riner

HB 350, Representative Riner

HB 351, Representative Riner

HB 435, Representative Riner

HB 438, Representative Simpson

HB 445, Representative Riner

HB 447, Representative Meeks

HB 457, Representative Meeks

HB 462, Representatives Crimm, Edmonds, Hoffman, Meeks, and Sims

HB 486, Representative Riner

HB 503, Representative Riner

HB 521, Representative Riner

HB 529, Representative Riner

HB 532, Representative Riner

HB 536, Representatives Bather and Draud

HB 537, Representatives Bather and Draud

HB 548, Representatives Nesler and Siler

HB 560, Representative Riner

HCR 4, Representative Meeks

HCR 143, Representative Riner

HJR 134, Representative Marcotte

HJR 150, Representative Riner

HR 79, Representative Riner

HR 107, Representative Riner

The following member filed a request to have his name withdrawn as co-sponsor of the following Bill:

HB 382, Representative Nunn

Announcements

The following meetings were announced:

Labor and Industry Committee: 15 minutes upon adjournment, Room 149

Judiciary Committee: Upon adjournment, Room 125

Banking and Insurance Committee: Upon adjournment, Speaker's Office

Local Government Committee: Thursday, February 20, 2003, 9:00 a.m.

Transportation Committee: Thursday, February 20, 2003, 10:00 a.m.

Licensing and Occupations Committee: Thursday, February 20, 2003, Upon adjournment, Room 131

Agriculture and Small Business Committee: Thursday, February 20, 2003, Noon

Economic Development Committee: Thursday, February 20, 2003, Noon

Adjournment

Representative Stumbo moved that the House adjourn until 2 p.m. on Thursday, February 20, 2003.

The motion that the House adjourn until 2 p.m., Thursday, February 20, 2003, was adopted by voice vote.